

General Terms and Conditions of Froxlor GmbH

Valid from 01.01.2022

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§1. Scope

- (1) Internet services are provided by Froxlor GmbH (hereinafter referred to as: "**Froxlor**"). These GTC shall apply to all contracts between Froxlor and its Customers. Special terms and conditions for the transfer and use of software, for server management and for resellers are those listed in the appendix. However, these shall only apply if one of the services listed there is used by the Customer. If in concluded contracts (orders and/or assignments) between the parties no express reference is made to these General Terms and Conditions, they shall nevertheless apply. Special agreements between the parties shall take precedence over these GTC, but this shall not apply to contractual terms that have been pre-formulated by the customer. Deviating general terms and conditions of the Customer shall not be valid, even if Froxlor does not expressly object to them.
- (2) The GTC may be amended by Froxlor at any time. All contracts are subject to the GTC valid at the time of conclusion. Changes to the GTC for existing customers can only occur under the following conditions:
 - Unforeseeable changes affecting a party unilaterally, which Froxlor does not initiate and over which it has no influence.
 - Gaps in the GTC, which hinder the correct execution of the contract.
- (3) A notification period of at least four (4) weeks is set for changes. The Customer will receive the new GTC and a description of the reasons for and scope of the changes in advance. If no objection is received in writing or via an authorized e-mail address before the changes come into force, but Alu-DC's services continue to be used, consent to the new GTC shall be declared. The amended GTC shall then apply to all contracts from the date notified. If a formal objection is received, the GTC valid up to that point shall continue to apply, in which case both parties shall be given the option of terminating the contract after due notice (generally three (3) months to the end of the month, unless otherwise agreed).

§2. Scope of services

- (1) In order to be able to offer the full scope of Alu-DC's services, it is dependent on the infrastructure of third parties. Froxlor cannot always exert any influence on its service and disruptions or impairments may occur, the causes of which may be, above all, force majeure, or disruptions of the Internet.
- (2) If there is no individual agreement between the parties, Froxlor guarantees an availability of the booked services of 99.5% per year. An essential operational readiness of the services and servers shall be deemed to be availability.

The following circumstances are excluded as interference:

- Interruptions due to force majeure;
 - disruptions to third-party services over which Froxlor has no control and which lead to interruptions;
 - interruptions that are announced by Froxlor for at least fourteen (14) days; and
 - short-term interruptions of operation that are necessary to prevent or avoid (e.g., through updates) specific threats due to possible misuse by third parties (so-called exploits).
- (3) Maintenance and service work is a basic requirement for the prevention of unwanted malfunctions. These are carried out regularly by Froxlor. If this disrupts the availability of services or servers, Froxlor will announce the work by e-mail and schedule the time of the maintenance to a period with as few requests as possible.
 - (4) Regular software updates support Alu-DC's efforts to maintain a high level of security. The scope and operation of the services provided by Froxlor may be changed as a result. Also, as a result, it cannot be ruled out that Customers will have to make adjustments to their content and/or installed applications. Should it be possible, Froxlor will inform the Customer of this. If such a system update requires unacceptable changes for the Customer, the Customer may terminate the contract extraordinarily.

- (5) During the term of the respective contract, an adjustment of the tariff (upgrade/downgrade) is possible at any time. When the tariff is changed, a new contract begins with the General Terms and Conditions and service descriptions applicable at that time and, as a result, any changes to the costs and contract terms. Details on this can be requested from Froxlor at any time.
- (6) Support services are provided by answering customer questions via e-mail and telephone, unless otherwise agreed between the parties.

§3. Terms of payment

- (1) Services that are not subject to consumption billing are paid in advance for the period of use regulated in the contract. Consumption-based services are charged after the end of the period of use. An individual arrangement, can be regulated by contract.
- (2) Customers have the option of paying by direct debit, bank transfer or PayPal. The payment options can also be adjusted during the contract period. Direct debit authorizations issued to Froxlor can be revoked at any time. Bank charges due to returned direct debits will be passed on to the customer on a one-to-one basis as a processing fee.
- (3) Invoices are to be paid immediately, unless otherwise agreed.
- (4) If payment is delayed, Froxlor shall be entitled to withhold services. These are to be announced and can lead to the blocking or restriction of access, this also applies to domains that have been registered for the customer.
- (5) In the event of a blocking, the expenses incurred by Froxlor shall be charged to the Customer as a processing fee at the agreed hourly rate.
- (6) All processing fees are justified as long as the customer does not prove that no damage or only very minor damage was incurred in the individual case.
- (7) If (i) a delay in payment is established on two consecutive dates and the amount exceeds a not insignificant part of the remuneration, or (ii) a delay in payment is established in a period longer than two due dates, which adds up to two scheduled charges, Froxlor reserves the right to terminate the contract without notice for good cause and to discontinue all services.

- (8) Alu-DC's claims against the Customer may only be offset against undisputed or legally established counterclaims.
- (9) Froxlor usually provides its services to its customers over a longer period of time. Changes in costs cannot be ruled out due to legal or economic changes that are beyond Alu-DC's control. Examples of this are e.g. changes in colocation or energy costs. With a change period of eight (8) weeks, Froxlor reserves the right to adjust the prices at the beginning of a new billing period. Thus, the Customer is granted an extraordinary right of termination at the beginning of the price change. Froxlor will explicitly inform its Customers that an objection must be received by Froxlor no later than four weeks after receipt of the notification of the increase. Otherwise the price adjustments will be considered as approved.

§4. Duties of the customer

- (1) The customer has the obligation to ensure the accuracy of his data, which are relevant for contact and billing. If a direct debit authorization has been issued, the bank details must also be provided completely and correctly. Froxlor must be informed immediately of any changes to the data.
- (2) The registration, deregistration, and reregistration of domains at the Network Information Centers (NIC) may require the written consent of the domain holder. The customer is obliged to provide his consent in the respective required form without delay as long as the adjustments result from an order of the customer.
- (3) In order to use the services provided to the Customer by Froxlor, access data is required which is generated and transmitted by Froxlor. The Customer is obliged to change the passwords immediately and to keep them secret from third parties and to protect them from any misuse. The Customer shall bear the responsibility for the actions of third parties in connection with his access data, should he be responsible for its misuse.
- (4) In the absence of an explicit written order, Froxlor will only perform backups of the content deposited by the Customer that are necessary to fulfill the booked services, as well as to comply with the data backup obligation, Froxlor has as a service provider. We specify a backup cycle of 1 week for this purpose and do not release this for customer use. In the absence of a written order, the customer is responsible for creating and maintaining sufficient backup copies of his content to enable him to manage it without restriction.

- (5) Froxlor shall be entitled to access the Customer's data and content to the extent that this is necessary for the maintenance of operations.
- (6) The Customer undertakes to comply with all applicable statutory provisions for all services used by Froxlor. Actions that may lead to the disruption of the operation of Alu-DC's servers are prohibited. The following actions in particular (but not exhaustively) are prohibited:
- Deposit and/or make available data and material with radical content or offensive character, call for terrorism and acts of violence;
 - deposit and/or make available data and material of a pornographic, commercial erotic nature and copyrighted material that the user is not authorized to distribute (e.g. so-called "warez" sites, illegal media downloads);
 - operating mining services for cryptocurrencies (Bitcoin, Ethereum, and more); and
 - sending SPAM emails and other "mass emails".
- (7) Froxlor does not check the contents of the servers and obliges the Customer to comply with the regulations. The Customer is obliged to ensure that no prohibited action is taken and is responsible for the legality. The Customer shall be obliged to check the content of all data and its compatibility with the law, individual contractual provisions and these GTC.
- (8) The services used by Froxlor may be temporarily blocked if the above-mentioned regulations are violated. Should third parties demand that the Customer cease and desist from the actions carried out by the Customer stating reasons, provided that these reasons are not obviously incorrect after examination, or should state authorities demand a temporary blocking, this shall be carried out and the Customer shall be heard by Froxlor beforehand if possible. Should this not be possible in individual cases due to urgency, the Customer will be informed subsequently and given the opportunity to comment on the facts.

- (9) The blocking will be lifted as soon as possible when the suspicion of the violation is invalidated.
- (10) Froxlor shall always be obliged to provide a faultless service to the Customer. If the Customer detects a malfunction, Froxlor must be informed immediately, and the malfunction must be described with meaningful data. If the Customer's cooperation is required to eliminate the malfunction, the Customer shall be obliged to comply with this, otherwise the Customer shall be deemed responsible for the malfunction itself.

§5. Contract term, termination

- (1) Unless there is an express agreement to the contrary between the parties, a contract is concluded for an indefinite period. In this case, both parties have the right to terminate the contract with the notice period of one (1) month to the end of the month.
- (2) Contracts with an agreed term of **at least** twelve (12) months shall be extended in each case by a further twelve (12) months if they are not terminated by one party with one (1) month's notice to the end of the respective contract term.
- (3) If one party is entitled to an ordinary special right of termination under these GTC, the contract may be terminated with one (1) month's notice to the end of the month; i.e., the minimum contract term shall not be taken into account in this respect.
- (4) Any termination of a contract must be made in text form in accordance with § 126 b BGB. For example, by e-mail, postal letter, or fax. It must be clear from the text form which person is making the declaration and whether this person is authorized to make the declaration. To ensure authorization and to rule out misunderstandings, only those notices of termination that include details from the order, such as the customer number, as well as the name and address of the customer, will therefore be accepted as effective in written form. If the notice is sent from an e-mail address that has already been authorized, it shall be deemed to be effective in writing. Froxlor nevertheless reserves the right at all times to ensure the identity of the person giving notice of termination by means of suitable queries in the event of any doubts.

- (5) Domain holders who have registered domains with Froxlor and terminate the contract are obliged to inform Froxlor how to proceed with the domains after termination. If no action is taken in due time, Froxlor reserves the right to delete the respective domains. If Froxlor terminates the contract, the same procedure shall apply with the difference that Froxlor has to request the Customer in writing (e-mail is sufficient) to give notice of termination.
- (6) Both parties have the right to terminate the contract without notice for good cause. Important reasons for termination by Froxlor are:
 - Insolvency proceedings are opened against the customer's assets or are dismissed for lack of assets.
 - The Customer violates the contractual obligations or these GTC and does not cease the violations even after a warning and/or blocking of the services by Froxlor.
 - Froxlor determines with an economic analysis, a negative contract profitability.

§6. Warranty and liability

- (1) Froxlor shall not be liable for damage, consequential damage or loss of profit due to malfunctions and technical problems in technical systems that are beyond Alu-DC's control. Froxlor shall not be liable for damages caused by the Customer's non-compliance with the obligations, in particular not for the backup of the contents deposited by the Customer.
- (2) Liability regardless of fault is excluded for defects in the storage space provided that already existed at the time the contract was concluded.
- (3) In principle, Froxlor shall only be liable in the event of intent or gross negligence. If the minimum availability is not complied with, Froxlor shall be liable, provided that the Customer asserts such in text form, for a maximum of one month's rent for the service affected by the non-compliance.
- (4) If material contractual obligations are breached due to slight negligence, Froxlor shall only be liable for typical damage that was foreseeable at the time the contract was concluded.

- (5) The Customer shall be liable for all damages (including loss of profit) incurred by Froxlor as a result of non-compliance with the obligations imposed on the Customer under § 4 of these GTC.
- (6) The Customer undertakes to indemnify Froxlor against claims of third parties of any kind resulting from the illegality of content that the Customer has stored on the storage space provided to him. This indemnification claim also includes legal defense costs of Froxlor (e.g. court and lawyer's fees).

§7. Final provisions, place of jurisdiction, applicable law

- (1) The law of the Federal Republic of Germany shall apply to all legal relationships between the parties.
- (2) The place of performance and jurisdiction for all disputes between the parties is Frankfurt am Main.
- (3) Changes to contractual agreements made must be in writing.
- (4) Special rules apply to the registration of domains:
- (5) If Froxlor is commissioned by the Customer to register domains, the following provisions shall apply in addition:
 - The customer's registration application will be transmitted by Froxlor to the responsible registration authority (NIC). The customer is responsible for the admissibility, completeness and correctness of his application and the information contained therein; Froxlor does not check the application (also not for plausibility). Froxlor has no influence on the registration and is not liable for its success.
 - Based on the domain registration, a contract is concluded directly between the NIC and the customer according to the terms and conditions of the registries. The customer has to inform himself about the allocation principles and general terms and conditions of the NIC.
 - Froxlor handles domain registrations via RRPproxy Key-Systems GmbH, Im Oberen Werk 1, 66386 St. Ingbert, Germany. With the registration order, the customer accepts, in addition to the GTC of Froxlor GmbH, the GTC of RRPproxy Key-Systems GmbH, which can be found at https://www.rpproxy.net/Legal/Terms_and_Conditions.

§8. Special arrangements for web hosting

If the service, storage space with Internet connection (web hosting of any kind) is guaranteed to the Customer in the contract with Froxlor, the following provisions shall be added to the GTC:

- (1) by the Customer's order, Froxlor shall provide storage space with a connection to the Internet for the Customer's use within the scope of these GTC.
- (2) the IP addresses assigned to the customer as a result cannot be claimed permanently. Froxlor reserves the right to change these for technical reasons.
- (3) if the storage space is accessed, the transfer of data via the Internet results in so-called traffic. The customer is contractually guaranteed a certain traffic quota. If this is exceeded, each additional traffic unit used is charged in accordance with the fees specified in the contract.

§9. Special agreements for handover and use of software

If the Customer is promised software for use in the contract with Froxlor, the following provisions shall be added to the GTC:

- (1) The software developed by Froxlor may be used by the Customer within the framework of the license and usage conditions. With the concluded contract, the customer is granted a simple, non-transferable right of use.
- (2) Handed over manuals remain the property of Froxlor.
- (3) If third-party software (including open-source software) is provided, the customer shall observe the manufacturer's license terms and conditions of use.

§10. Special agreements for server management

If the Customer is assured of the leasing of a (virtual or physical) server incl. management in the contract with Froxlor, the following provisions shall be added to the GTC:

- (1) By leasing physical servers or virtual servers emulated by software, dedicated computing power is provided to the customer. Through the management agreement, Froxlor commits to keep the operating system of the server up to date. Even if current updates and patches are applied, there is still the possibility of unpatched security holes or programming errors. Exploits are gaps in systems for which there are no patches yet. Froxlor accepts no liability for damage or disruption caused by third parties via exploits.
- (2) If management by Froxlor is desired for the rented server, the customer will not receive administrative access for the server.

§11. Special agreements for resellers

If the contract with Froxlor does not provide the customer with the provided services exclusively for his own use but allows him to pass them on to third parties (third-party customers) against payment (reseller), the following provisions shall be added to the GTC:

- (1) The Reseller Permit grants the Customer the right to make the services contractually guaranteed by Froxlor available to third-parties. This distribution right is not exclusive. There is no claim to compensation in accordance with § 89b of the German Commercial Code (Handelsgesetzbuch).
- (2) The Customer who has concluded the contract with Froxlor is the sole contractual partner for Froxlor. He is obliged to pass on the obligations set out in §4 of these GTC to his customers and to urge them to comply with the conditions.
- (3) Should it be necessary for the third-party customer to cooperate for the adjustment, registration or cancellation of domains, the customer shall ensure that the deadlines for the cooperation of the third party are met.
- (4) The Customer shall be liable to Froxlor for all damage caused by third party customers due to non-compliance with contractual obligations of these GTC.