

Terms of Service

Sparkridge IT Solutions trading as HostUnmetered issues this document. The company shall be known throughout this document as HostUnmetered.

Use of HostUnmetered Service constitutes acceptance and agreement to our TOS (Terms of Service). All service provisions are subject to the TOS (Terms of Service) of HostUnmetered.

The TOS may be changed from time to time at the discretion of HostUnmetered. The client understands that changes to the TOS by HostUnmetered shall not be grounds for non-payment.

HostUnmetered agrees to provide the client with web hosting services for a monthly or annual fee. HostUnmetered will never require clients to advertise for HostUnmetered on their website in any way shape or form unless agreed upon, such as a non-profit organisation receiving complimentary hosting. Clients can use HostUnmetered services for personal and/or business/commercial websites or content.

Content

All services provided by HostUnmetered may be used for lawful purposes only. Transmission, storage, or presentation of any information, data or material in violation of any Belgian (or any other country) law is prohibited. This includes, but is not limited to: copyrighted material, material that is threatening or obscene, material that is "adult only" content, or material protected by trade secrets and other statute. The subscriber agrees to indemnify and hold harmless HostUnmetered from any claims resulting from the use of the service which damages the subscriber or any other party.

Some Examples of Unacceptable Content:

- Illegal Adult Content
- Hacking programs / Hacking Archives / Hacking Information
- Warez Sites
- Spam / Spamming Software
- Distribution or Transmission of Obscene or Indecent Speech or Materials
- Copyright Infringing Content

Violation of indecency and obscenity laws can result in criminal penalties.

Intellectual Property Rights

Material accessible to you through HostUnmetered's Services may be subject to protection under Belgian (or any other country) copyright laws, or laws protecting trademarks, trade secrets or proprietary information. Except when expressly permitted by the owner of such rights, you must not use the HostUnmetered Service in a manner that would infringe, violate, dilute or misappropriate any such rights, with respect to any material, which you access or receive through the HostUnmetered Network. If you use a domain name in connection with the HostUnmetered Service or similar service, you must not use that domain name in violation of any trademark, service mark, or similar rights of any third party.

SPAM and Unsolicited Email:

HostUnmetered takes a zero-tolerance approach to the sending of Unsolicited Email (SPAM). Very simply this means that Clients of HostUnmetered may not use or permit others to use our service for sending SPAM Emails. Clients of HostUnmetered may not host, or permit hosting of, sites or information that is advertised by SPAM from other services. Violations of this policy carry severe penalties, including termination of service.

If a customer is found to be in violation of our SPAM policy, HostUnmetered may, at its sole discretion, restrict, suspend or terminate a customer's account. HostUnmetered solely reserves the right to refuse or cancel service to known spammers. Lastly, HostUnmetered reserves the right to determine what violates this policy. As such, any violation may result in cancellation of services without refund.

Network Security

Customers may not use the HostUnmetered Network to attempt to circumvent user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for the customer, logging into a server or account the customer is not expressly authorized to access, password cracking, probing the security of other networks in search of weakness, or violation of any other organization's security policy. Customers may not attempt to interfere or deny service to any user, host, or network. This includes, but is not limited to, flooding, mail bombing, or other deliberate attempts to overload or crash a host or network. HostUnmetered will cooperate fully with investigations of violations of systems or network security at other sites, including cooperating with law enforcement authorities in the investigation of suspected criminal violations. Users who violate system or network security may incur criminal or civil liability.

Physical Security

For security reasons HostUnmetered operates 'closed' datacentre facilities. Physical access to any servers or related equipment at any HostUnmetered locations is not permitted. Only fully authorised HostUnmetered staff are permitted access to work onsite at these facilities.

Support Boundaries:

HostUnmetered provides 24/7 technical support to its Clients on a fair use basis.

HostUnmetered limits technical support to its area of expertise, this is providing web hosting services and related features. HostUnmetered does not offer support for application specific issues such as php programming, cgi programming, html, website design and development or any other such issue. If you host multiple websites for your own clients, HostUnmetered does not provide technical support for YOUR Clients.

Any additional work you may require from HostUnmetered staff which does not fall within usual support boundaries is charged at a rate 100 EUR per hour, in 30 minute increments. All charges will be discussed before work commences on a per incident basis. Examples of work beyond the boundaries of normal support include: site scripting problems, script installation, website design and development.

Cancellations:

Requests for cancellation must be submitted via the billing area ([My Services > View Details > Management Actions > Request Cancellation](#)). Your cancellation will be confirmed by email and logged on your account. Once an account has been terminated we do not retain any data or backups.

Standard Notice Period:

HostUnmetered has a 14-day notice period for cancellation of your account. Cancellation must be received at least 14 days before your next invoice due date. HostUnmetered will then stop all recurring payments and you will not be charged again. Any invoices due within the notice period, or overdue invoices on your account must be paid in full prior to cancellation.

Custom Solutions Notice Period

Customers on non-standard hardware configurations and custom are required to provide 30 days written notice for cancellation of their services. Any invoices due within the notice period, or overdue invoices on your account must be paid in full prior to cancellation.

The customer acknowledges that, termination of the agreement for any reason will result in HostUnmetered ceasing to provide the applicable services, with the consequences that flow from such cessation, including (but not limited to), deletion of data. e.g. hosting account(s), mail boxes and backups.

Payment:

Establishment of this service is dependant upon receipt by HostUnmetered of payment of all stated charges. Subsequent payments are due on a reoccurring date that coincides with the date of signup (monthly or yearly terms).

When payment is declined from your chosen payment method we will send an email notification and retry payment the following day, this will occur 3 times over a 3-5 day period. After this period if we have not received payment or had notice from you that the due payment is in hand, your account will be suspended or terminated at the sole discretion of HostUnmetered.

It is very important you keep your email address and telephone numbers on file with us current. Failure to keep us updated with accurate contact information may mean important communications don't reach you, resulting in suspension or termination of your hosting account.

A service charge, equal to the charge incurred by HostUnmetered, will be charged to your account for each cheque, chargeback, disputed payment, or any other form of payment that is returned to HostUnmetered unpaid.

Refunds and Disputes:

All payments to HostUnmetered are non-refundable. This includes any setup fee and subsequent charges regardless of usage. If you dispute a charge that, in HostUnmetered's sole discretion is a valid charge under the provisions of this TOS, you agree to pay HostUnmetered an Administrative Fee for costs associated with pursuing that payment.

If you are paying annually for hosting services and cancel early before your 12 months of service is over, we will issue a pro-rata refund for full unused months at time of cancellation. HostUnmetered does not charge or refund days or part-months.

HostUnmetered does not offer any kind of "money back guarantee" or initial "trial period".

All domain name registration fees are non-refundable, in whole or in part, even if your domain name registration is suspended, cancelled or transferred prior to the end of your term. Please be careful when ordering as spelling mistakes and 'typos' cannot be corrected or refunded.

VAT and Payment Currency

Clients will be billed in EUR and prices include VAT. If you are a VAT registered business in another EU member state then you must supply your VAT registration number for VAT to be zero-rated. If your VAT registration number is not supplied or cannot be confirmed as valid then VAT at the Belgian (21%) rate will apply.

Pricing

HostUnmetered reserves the right to change the pricing of products and/or services at any time at its own discretion.

We publish price changes on your invoice accessible through your control panel at least 14 days before your product or service is renewed. If you do not agree to such price changes, please cancel your services in accordance with our standard procedure. If you do not cancel, you will be deemed to have accepted the new prices, and they will be charged to the credit card or other payment method registered to your account.

Invoicing

HostUnmetered does not provide paper or hard-copy invoices. PDF invoices are sent via email and available in your billing area.

Managed Dedicated & Cloud Servers

Dedicated & Cloud server customers should also read and agree to the following before signing up for service with HostUnmetered:

Dedicated server specifications may vary over time as technology changes and our stocks are sold and replenished. All hardware provided by HostUnmetered to the customer will be of comparable specification and performance to those shown on the HostUnmetered website or in any written quotation.

HostUnmetered will make all reasonable efforts to satisfy the customer's requests for technical and/or administrative changes to the customer's dedicated servers. Certain tasks, such as repairing software/system faults caused by the customer, or installing certain additional software packages, may, at the sole discretion of HostUnmetered, incur a service fee based on a 50 EUR/hour work rate, billed in half-hour increments with a half-hour minimum charge.

Customers are responsible for and subject to all software vendor licensing terms, conditions, restrictions, and limitations. It is the customer's responsibility to ensure conformance to and abide by the specific terms and conditions of each application's licensing agreements.

Dedicated and Cloud servers come with an included amount of monthly bandwidth. It is possible for your server to utilize more bandwidth than the included amount, it is not a hard quota where the server will stop responding when breached. Additional bandwidth beyond your included quota is charged at a rate of 10 EUR per 1TB.

HostUnmetered does not guarantee the off site backups of your server. We take CDP backups as a precaution but cannot guarantee their availability, usability, or integrity. We schedule 4 backups per day but due to the number of variables which can dictate the speed a successful backup can be obtained it may not be possible to get 4 full backups on any given day, backups are therefore scheduled on a best effort basis which may vary from day to day. HostUnmetered can accept no responsibility for any loss of data or consequences arising from this. HostUnmetered always advises clients to take their OWN back ups of all data regularly for your own disaster

Abuse

Any attempts to undermine, slander, libel, threaten, or cause harm to a HostUnmetered server, customer, employee, or the company directly is strictly prohibited and is grounds for immediate termination without refund. In addition, we will pursue all attempts to the fullest extent of the law.

Refusal of Service

HostUnmetered reserves the right at its sole discretion to refuse or cancel service. Violation of any of HostUnmetered's TOS could result in a warning, suspension, or account termination. Accounts terminated due to policy violations will not be refunded. Domains terminated due to policy violations will not be released to the customer.

Information Disclosure Policy

HostUnmetered will not otherwise disclose its customers' personal and account information unless HostUnmetered has reason to believe that disclosing such information is necessary to identify, make contact with, or bring legal action against someone who may be causing harm or interfering with the rights or property of HostUnmetered, HostUnmetered' customers, or others, or where HostUnmetered has a good faith belief that the law requires such disclosure.

HostUnmetered also will not, except for reasons stated below, disclose to third parties the contents of any electronic mail, electronic communications, or other electronic data that HostUnmetered stores or transmits for its customers. The circumstances under which HostUnmetered will disclose such electronic customer communications or data are when: * it is necessary in order to provide service to the customer * it is necessary to protect the legitimate interests of HostUnmetered and its customers * it is required to cooperate with dispute policies, court orders, warrants, or other legal processes that HostUnmetered determines in its sole discretion to be valid and enforceable * it is necessary to provide to a law enforcement agency when the contents appear to pertain to the commission of a crime

Complaints Procedure

HostUnmetered always strives to provide the highest standards of customer service. However, in the unlikely event of you having a complaint we will always do everything possible to ensure it is dealt with quickly and fairly.

Please contact us on the telephone number below to speak to someone from the department you feel is most relevant to your complaint (support, sales or billing).

- Email: support@hostunmetered.net
- Telephone: +32 3 450 69 19

If our team are unable to resolve your complaint they will refer the issue to someone at director level. Upon receipt of your complaint the director will investigate thoroughly and respond back to you directly.

If you prefer to put the complaint in writing please use our postal address below:

Sparkridge IT Solutions, Uitbreidingstraat 84 bus 3, 2600 Berchem, Belgium

Please include your account domain name and as much detail as possible in your request, so we can fully investigate your concerns before contacting you. Finally, please note that postal complaints may take longer to process and we would always advise customers (wherever possible) to contact us directly by email or telephone.

Indemnification

Customer agrees that it shall defend, indemnify, save and hold HostUnmetered (or it's employee's/owners) harmless from any and all demands, liabilities, losses, costs and claims, including reasonable legal fees asserted against HostUnmetered, its agents, its customers, officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by customer, it's agents, employees or assigns. Customer agrees to defend, indemnify and hold harmless HostUnmetered against liabilities arising out of; (1) any injury to person or property caused by any products sold or otherwise distributed in connection with HostUnmetered server; (2) any material supplied by customer infringing or allegedly infringing on the proprietary rights of a third party and (3) copyright infringement. Customer agrees to limit the liability of HostUnmetered to the amount paid for service.

Disclaimer

HostUnmetered will not be responsible for any damages your business may suffer. HostUnmetered makes no warranties of any kind, expressed or implied for services we provide. HostUnmetered disclaims any warranty or merchantability or fitness for a particular purpose. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by HostUnmetered and its employees. HostUnmetered makes no "uptime" guarantees. The Client agrees that HostUnmetered shall not be liable for any damages as a result of loss of hosting services or hosted data. The Client further acknowledges that HostUnmetered's liability for its own negligence is zero, and HostUnmetered may not be held responsible. Liability or Damages in any event may not exceed an amount equivalent to charges payable by Client for services during the period damages occurred. In no event shall HostUnmetered be liable for any special or consequential damages, loss of revenue or injury. HostUnmetered is not liable or responsible for the legal actions taken against you because of abusing our service.

HostUnmetered can accept no responsibility for any loss of data or consequences arising from this. HostUnmetered always advises clients to back up their site data regularly for their own protection. HostUnmetered does not guarantee its own backups of customer data and is not liable for any loss of data, loss of backups or inability to restore service after implementing its disaster recovery plan.

HostUnmetered furthermore expects that its customers who provide hosting services (resellers) to others will ensure its customers fully comply with all applicable laws and this HostUnmetered TOS. A reseller's client's failure to comply with those laws and our TOS will violate this policy.

If a customer provides hosting services (resellers) to others and decides to cancel their reseller hosting account with HostUnmetered then HostUnmetered will not be responsible for maintaining hosting for the resellers customers. HostUnmetered has no agreement or responsibility to any resold services. Resold services to others are your own responsibility.

All communications (emails, verbal or written) are between HostUnmetered and the client. These communications are private and are therefore not to be shared with any other parties.

This agreement is made between the customer (as specified in the customer details section when placing your order) and HostUnmetered. If you are purchasing hosting on behalf of another party please ensure you specify the account owners details in the customer details section. HostUnmetered will only be able to communicate with regards to the account with the registered customer and not a third-party.

Finally, HostUnmetered wishes to emphasize that in accepting services, customers indemnify HostUnmetered for the violation of any law or HostUnmetered policy that results in loss to HostUnmetered or the bringing of any claim against HostUnmetered. This means that if HostUnmetered is sued because of activities of the customer that violate any law, or this policy, the customer will pay any damages awarded against HostUnmetered, plus costs and reasonable legal fees.

Failure to comply with any of our terms of service will result in grounds for immediate account deactivation or removal.

Privacy Policy

This Data Processing Agreement is an integral part of the agreements between the Customer and HostUnmetered. HostUnmetered is the Processor of the personal data and the Customer is the Controller with regard to the personal data.

1. Purposes of data processing operations

- 1.1 The Processor commits to processing personal data on the instructions of the Controller, subject to the conditions of this Data Processing Agreement. The data will only be processed for the purpose of storing data of the Controller in the 'cloud', the related online services, colocation and those purposes that can be reasonably associated with it or will be determined by mutual agreement.
- 1.2 The Controller will decide which types of personal data it requires the Processor to process and therefore also to which (categories of) data subjects the personal data relate. The Processor exerts no influence on this decision. This relates in any case to personal data of customers of the Controller, and staff of the Controller, that are stored by the Customer at the Processor. The Processor will refrain from using the personal data for any purpose other than that determined by the Controller. The Controller will inform the Processor of the purposes of the processing where these are not already stated in this Data Processing Agreement.
- 1.3 The personal data to be processed on the instruction of the Controller will remain the property of the Controller and/or the data subjects concerned.

2. Obligations of the Processor

- 2.1 In respect of the processing referred to in Article 1, the Processor will ensure compliance with applicable legislation and regulations, including in any event the legislation and regulations in the field of the protection of personal data, such as the General Data Protection Regulation.
- 2.2 The Processor will inform the Controller, upon the latter's first request, of the measures it has taken to meet its obligations under this Data Processing Agreement.
- 2.3 The Processor's obligations arising from this Data Processing Agreement also apply to any party processing personal data under the authority of the Processor, including, but not confined to, employees, in the broadest sense.
- 2.4 The Processor will notify the Controller if it feels that an instruction provided by the Controller violates the legislation referred to in paragraph 1.

3. Transfer of personal data

- 3.1 The Processor is allowed to process the personal data in European Union member states. In addition, the Processor is allowed to transfer the personal data to a country outside the European Union, provided the Processor ensures an adequate level of protection and it complies with the other obligations to which it is subject pursuant to this Data Processing Agreement and the General Data Protection Regulation.
- 3.2 Upon request, the Processor will inform the Controller of the country or countries involved.
- 3.3 In particular, the Processor will, in determining an adequate level of protection, take account of the duration of the intended processing, the country of origin and the country of final destination, the general and sectoral rules of law that apply in the country concerned, as well as the professional rules and the security measures complied with in those countries.

4. Division of responsibility

- 4.1 The Processor will make ICT means available for the processing that can be used by the Controller for the purposes stated above. The Processor will itself only perform processing on the basis of separate agreements.
- 4.2 The Processor is solely responsible for the processing of the personal data under this Data Processing Agreement, in accordance with the instructions of the Controller and under the express (ultimate) responsibility of the Controller. The Processor is expressly not responsible for any other processing operations involving personal data, including in any event, but not confined to, the collection of personal data by the Controller, processing for purposes that the Controller has not notified to the Processor and processing by third parties and/or for other purposes.

4.3 The Controller warrants that the content, the use and the instructions for the processing of personal data as referred to in the Agreement are not unlawful and do not infringe any third-party right.

5. Division of responsibility

5.1 The Processor engages third parties, which are available on request and for which the Controller hereby provides authorisation. In the case of new third parties, the Processor will inform the Controller thereof. If the Controller has well-founded objections to the engagement of the third party, a suitable solution must be sought in consultation. If the parties are unable to reach a suitable solution, the Controller may give notice to terminate the Agreement if the use of a specific third party of which it has been notified is unacceptable to it.

5.2 The Processor will in any case ensure that these third parties assume similar obligations in writing as those agreed between the Controller and Processor.

5.3 The Processor warrants correct compliance with the obligations in this Data Processing Agreement by such third parties and, in the event of errors committed by such third parties, is liable itself for any and all damage or loss as if it had committed the error(s) itself.

6. Security

6.1 The Processor will endeavour to take sufficient technical and organisational measures against loss or any form of unlawful processing (such as unauthorised disclosure, interference, alteration or provision of personal data) in connection with the processing of personal data to be performed.

6.2 The Processor does not guarantee that the security is effective in all circumstances. If the Agreement does not include explicitly defined security, the Processor will endeavour to ensure that the security provided shall meet a standard that is not unreasonable, taking into account the state of the art, the sensitivity of the personal data and the costs associated with implementing the security.

7. Notification obligation

7.1 The Controller is at all times responsible for reporting data leaks (which includes a breach of the security of personal data that leads to a risk of negative consequences, or has negative consequences, for the protection of personal data) to the supervisory authority and/or data subjects. In order to enable the Controller to meet this legal obligation, the Processor must inform the Controller without delay of a data leak after it has detected one and if the leak relates to the personal data that are processed by the Processor on behalf of the Controller.

7.2 The notification obligation shall in any case include reporting that a leak has occurred, as well as:

- the supposed or known cause of the leak;
- the consequences (that are currently known and/or are to be expected);
- the solution or proposed solution.

8. Handling requests from data subjects

In the event that a data subject submits a request to exercise their statutory right of inspection or their statutory right to improvement, addition, amendment, blocking, erasure of data or data portability to the Processor, the Processor shall forward the request to the Controller and the Controller will handle the request. The Processor may inform the data subject about this.

9. Privacy and confidentiality

9.1 All personal data the Processor receives from the Controller and/or collects itself within the framework of this Data Processing Agreement is subject to a duty of confidentiality towards third parties. The Processor will not use this information for any purpose other than that for which it was provided.

9.2 This duty of confidentiality does not apply insofar as the Controller has expressly granted permission to provide the information to third parties, if providing the information to third parties is logically required in view of the nature of the work assigned and the performance of this Data Processing Agreement or if there is a statutory obligation to provide the information to a third party.

10. Audit

10.1 The Controller may have an audit conducted at the Processor by an independent 'Register EDP Auditor' who is bound by a duty of confidentiality in order to verify compliance with the agreements

under this Data Processing Agreement concerning the protection of the personal data processed by the Processor on behalf of the Controller.

- 10.2 This audit will only take place where there is a specific and well-founded suspicion of misuse of personal data, and only after the Controller has requested and assessed similar existing reports from the Processor, and has made reasonable arguments to justify an audit being initiated by the Controller. Such an audit is justified if the similar reports that the Processor has available provide an insufficient or inconclusive answer regarding compliance with this Data Processing Agreement by the Processor. The Controller will notify the Processor of the audit in advance, giving at least two weeks' notice.
- 10.3 The Parties will jointly assess the findings of the audit that has been conducted and will determine on that basis whether or not those findings will be implemented by one of the Parties or by both Parties jointly.
- 10.4 Insofar as possible and reasonable, the Processor will cooperate with the Controller in carrying out a data protection impact assessment.
- 10.5 The costs of the audit described in paragraphs 1 and 4 above will be borne by the Controller.

11. Duration and termination

- 11.1 This Data Processing Agreement will enter into effect once it has been signed by the Parties, on the date of the second signature.
- 11.2 This Data Processing Agreement has been entered into for the term specified in the Agreement between the Parties, in the absence of which it will at least apply for the duration of the collaboration.
- 11.3 Upon termination of the services by the Processor, the Controller is itself responsible for making copies of, exporting or otherwise returning, in good time, the personal data that the Processor processes on behalf of the Controller. After the end of the term of the Agreement, the Processor will remove or destroy the (personal) data of the Controller.
- 11.4 The Processor is entitled to revise this agreement from time to time. It will inform the Controller of the changes at least three (3) months in advance. The Controller may lodge a notice of objection by the end of these three (3) months if it does not agree to the changes. If the Processor does not receive a notice of objection within this period, the changes will be deemed to have been accepted by the Controller.

12. Duration and termination

- 12.1 The Data Processing Agreement and its execution are governed by Belgian law.
- 12.2 Any disputes that may arise between the Parties in connection with the Data Processing Agreement will be submitted to the competent court in Antwerp.