



Terms of Service

THESE TERMS OF SERVICE (“Terms of Service” or “TOS”) GOVERN CUSTOMER’S ACCESS TO, AND USE OF, THE SERVICES. PERSON ELECTRONICALLY SUBMITTING THE ORDER OR ACCESSING THE SERVICES HEREBY DECLARES THAT: (a) IT HAS THE AUTHORITY TO CONCLUDE THE SUBSCRIPTION AGREEMENT ON BEHALF OF CUSTOMER (b) INFORMATION PROVIDED TO SERVICE PROVIDER IN ORDER TO CREATE THE ACCOUNT IS COMPLETE AND CONSISTENT WITH THE FACTS (c) UNDERSTANDS AND AGREES TO THESE TERMS OF SERVICE AND (d) ON BEHALF OF THE CUSTOMER ACCEPTS THE TERMS OF SERVICE AND AGREES TO COMPLY WITH THE TERMS OF SERVICE.

IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS OF SERVICE, YOU MUST NOT COMPLETE ELECTRONIC ORDERING PROCESS AND YOU MAY NOT USE THE SERVICES.

DEFINITIONS

In addition to the capitalized terms defined above, the following defined terms shall apply:

1. **Subscription Agreement** – means an agreement between Service Provider and Customer on providing the Purchased Services by the Service Provider on terms and conditions described in this Terms of Service.
2. **Account** means a separate space in the Services, which records Customer Data, to which Customer gets access after a successful log into the Services.
3. **Agent** means a consultant engaged by Customer to provide services to and for the sole benefit of Customer.
4. **Authorised User** means Customer (in case of Customer being natural person), an individual employee of the Customer, or Agent, who is authorised by Customer to use Purchased Services. Customer is responsible for acts or omissions of Authorised User as for own acts or omissions.
5. **Continuity of Operation** – means operation of the Purchased Services without Periods of Dysfunction.
6. **Error** means malfunction of the Purchased Services occurred due to the fault of Service Provider or Third Parties.
7. **Critical Error** – shall mean the Error, which makes it impossible to use the Purchased Services in the scope necessary to supervise the PNR operation i.e.: a) impossibility of logging into the Account, or b) impossibility of PNR data entering or edition in the Account, or c) impossibility of PNR message sending.
8. **Non-Critical Error** – means any Error, which is not the Critical Error.
9. **Customer Data** means any files, documents and other information belonging to Customer or Authorised Users as entered to the Account by the Authorised Users.
10. **Customer** means a natural person, legal person or organisational unit without legal personality indicated in the Account as a customer.
11. **Effective Date** means date of the conclusion of the Subscription Agreement.
12. **Order** means online request submitted to Service Provider by Customer specifying the Services to be provided under the Subscription Agreement by indicating the Subscription Plan.
13. **Party** means either Service Provider or the Customer, and “Parties” shall mean Service Provider and the Customer together.
14. **Period of Dysfunction** – means the time between the moment of reporting of the Critical Error by Customer to the moment of restoring the operation of the Purchased Services.
15. **PIU** means Passenger Information Unit located in particular EU country.
16. **Purchased Services** means the Services included in the Subscription Plan.
17. **Service Provider** means Matic SA, a company in Poland, entered in the Register of Entrepreneurs maintained by the District Court for the capital city of Warsaw, XIII Commercial

Department of the National Court Register under number KRS 0000704115, with its registered office at Puławska 300A, 02-819 Warsaw, Poland, VAT# PL5271030027.

18. **Service Provider Software** means all software forming part of or used by Service Provider to deliver the Services, including any upgrades, improvements or enhancements thereof.
19. **Services (also called PnrGo)** means Service Provider's commercially available software-as-a-service offerings. The main purpose of the Services is to support customers in managing PNR obligations as specified in Directive (EU) 2016/681 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.
20. **Setup fee** means one-time payment to be paid by Customer to Service Provider for account setup and necessary integrations with Customers' systems.
21. **Subscription Fee** means the monthly or yearly fee to be paid by Customer to Service Provider for the Purchased Services.
22. **Subscription Plan** means Service Provider's subscription plan for use of the Services selected by the Customer in the Order. Terms of the Subscription Plan i.e. the Services included in the Subscription Plan and the method for calculating of the Subscription Fee (including fees used for the calculation of the Subscription Fee) can be reviewed through "PnrGo Account" page in the Account.
23. **Third Party** means any service or software delivered by external vendor and integrated with PnrGo.
24. **Working Day** means any day excluding Saturdays, Sundays and public holidays in Poland.
25. **Working Hours** means hours between 09:00 and 17:00 CET (Central European Time), working days.

BASIC TERMS

1. **The Subscription Agreement.** The Purchased Services shall be provided by Service Provider to Customer after the conclusion of the Subscription Agreement on terms and conditions described in this Terms of Service. The Subscription Agreement is concluded between Service Provider and Customer upon submission of the Order by Customer, in accordance with Service Provider's then current electronic ordering processes. Conclusion of the Subscription Agreement and the Effective date shall be confirmed by Service Provider through email.
2. **Technical requirement for the use of the Services.** The Services may be provided only to Customer having fulfilled following requirements: (a) connection to Internet, and (b) web browser.

RIGHTS AND LIMITATIONS OF USE

1. **Right to Use the Purchased Services.** Upon the Effective Date, Service Provider grants to Customer a limited, non-exclusive and non-transferable right to access and use, and permits Authorised Users to access and use, the Purchased Services, during the Subscription Agreement validity and in accordance with this Terms of Service. The Purchased Services may be accessed and used solely by the Authorised Users and for Customer's internal business needs only. Customer is not entitled to make the Services available to any other person and the Services shall not be used by Customer for any other person without prior consent of Service Provider.
2. **Limitations on use.** Except for the rights granted in the above point of this Section, no other rights in or to any Services or Service Provider Software, expressed or implied, are granted to Customer. Customer may not provide illegal content and use the Purchased Services in an illegal manner or against good practices which infringes personal rights of third parties or reasonable interests of Service Provider.
3. **Proprietary Rights.** Customer acknowledges that all right, title, and interest in and to the Services and the Service Provider Software is, and at all times shall remain, the sole and exclusive property of the Service Provider.

ORDERS, FEES AND PAYMENT

1. **Orders.** Customer may order Services using Service Provider's then current electronic ordering processes. All Customer information provided by or on behalf of Customer must be current, complete and accurate and Customer is responsible for keeping such information updated.
2. **Fees and payment.** Customer shall pay to Service Provider the Subscription Fee and fees for provision of additional services commissioned by Customer in connection with the Purchased Services ("Fees"). All Fees are due and payable by Customer as set forth on the invoice and payments are 10 days from the invoice date. Payments shall be made in currency stipulated in the Order. The Customer shall pay all applicable transactional fees so that the total amount given on the invoice is received by Service Provider. Customer agrees for issuing and sending invoices electronically. Payment shall be made by Customer through debit/credit card or PayPal account. Customer shall provide Service Provider through the Account with valid and up-to-date information regarding debit/credit card. Customer authorises Service Provider to: (i) take steps to determine whether a debit/credit card provided by Customer is valid, (ii) charge such card for the amount of Fees when payment of Fees is due. Service Provider shall not be responsible for any overdraft charges or other fees that may be incurred.
3. **Subscription Fee.** The Subscription Fee shall be paid by Customer to Service Provider monthly or yearly in arrears in accordance with the Subscription Plan. An invoice for the Subscription Fee will be issued by Service Provider at the beginning of each subscription period. In case of bilateral change of the Subscription Plan or order any additional services which have impact on additional costs a proportional invoice will be issued.
4. **Taxes and Withholding.** Fees do not include VAT, which should be accounted by the recipient as per Article 196 of Council Directive 2006/112/EC. All payments to be made by Customer under the Subscription Agreement shall be made in whole, without any deductions or offsets on account of tax. If, by virtue of applicable legal regulations binding the Customer, an amount due on account of taxes must be deducted or withheld from the amount which Customer is obliged to pay according to the Subscription Agreement, Customer shall pay such additional amount as is necessary to ensure that Service Provider receives net amounts equal to the full amounts that would be received by the Service Provider if the deduction or withholding requirement were not in force. Service Provider shall deliver to Customer, upon each request of Customer, an original of tax residency certificate issued by a relevant Polish tax authority certifying that Service Provider is a Polish tax resident within the meaning of a relevant double tax treaty or any other document or data that allows Customer not to deduct or withhold any tax or any similar levy.

TERM AND TERMINATION

1. **Term and cancellation of subscription.** The initial term of this Subscription Agreement is defined in the Order and shall commence as of the Effective Date. After the initial term the Subscription Agreement shall automatically renew for successive term as defined in the Order. Customer may provide notice of non-renewal to Service Provider at any time, in which case the Subscription Agreement shall end upon the expiration of then-current term. Notice of non-renewal shall be provided by Customer to Service Provider through "PnrGo Account" page in the Account or in a case of malfunction of Services – by email. Service Provider may provide notice of non-renewal to Customer at any time, in which case the Subscription Agreement shall end upon the expiration of next term.
2. **Termination for non-payment of Fees and suspension.** If any payment required under the Subscription Agreement or under any other agreement entered into by the Parties is delayed for more than 45 days, then Service Provider is entitled to suspend the Purchased Services. The Service Provider will give Customer at least 10 days' prior notice that the payment is delayed, before suspending Purchased Services. Upon receipt of payment in full of all overdue amounts, Service Provider shall promptly restore the suspended services. Service Provider may also suspend the Purchased Services if Customer otherwise breaches any term of the Subscription Agreement and fails to cure such breach within 2 Working Days after receipt of notice of the breach from Service Provider, until such time as the breach is cured. Information

about the suspension of the Purchased Services will be provided to Customer by e-mail. If any payment required under the Subscription Agreement or under any other agreement entered into by the Parties is delayed for more than 60 days, then Service Provider is entitled to terminate the Subscription Agreement immediately upon notice. Suspension of the Purchased Services does not affect Customer's obligation to pay the Subscription Fee.

3. **Termination for cause (in other cases than non-payment).** Either Party may terminate the Subscription Agreement by notice (i) if the other Party breaches any of its material obligations under the Subscription Agreement and fails to cure such breach within fourteen (14) days of receipt of notice of the breach from the non-breaching Party, or (ii) if the other Party became insolvent, liquidated or is dissolved. Service Provider may terminate the Subscription Agreement immediately upon notice for breach by Customer of Section "RIGHTS AND LIMITATIONS OF USE", "CUSTOMER DATA AND ACCOUNT", or in other cases stipulated in the Terms of Service.
4. **Effect of Termination.** Upon termination or expiration of the Subscription Agreement for any reason: (a) Service Provider will terminate provision of the Purchased Services and all rights granted by Service Provider pursuant to the Subscription Agreement shall terminate. (b) Customer shall pay all amounts that have accrued and are owed hereunder. (d) Any provision of the Subscription Agreement which, by its nature, would survive termination or expiration of the Subscription Agreement shall survive any such termination or expiration, in particular Section "LIABILITY" and "FINAL PROVISION" of the TOS.
5. **Termination notice of Service Provider.** Notice of non-renewal, termination notice as well as other notices mentioned in this Section may be provided by each Party to the other Party by email.

CUSTOMER DATA AND ACCOUNT

1. **Customer Data.** Customer retains all rights to any and all of Customer Data and Service Provider shall not own or license any data, content, information or material in such Customer Data. Service Provider shall apply reasonable technical, organisational and administrative security measures to keep Customer Data protected in accordance with industry standards. Service Provider will not monitor Customer's or Authorised User's use of the Purchased Services, and Service Provider will not view, access or process any Customer Data, except: (i) for the sole purpose of providing the Purchased Services, (ii) as directed or instructed by Customer and Authorised Users, and/or (iii) for compliance with law, regulation, or governmental request. Customer shall comply with all intellectual property laws related to Customer Data and legal duties applicable to Customer as a data administrator by virtue of the submission or storage of Customer Data within the Purchased Services, including providing all information or notices Customer is required by law to provide to Authorised Users or other person and obtain their consent where required.
2. **Account.** Customer is solely responsible for (i) the configuration of the Account, (ii) the operation, performance and security of Customer's equipment, networks and other computing resources used to connect to the Purchased Services, (iii) ensuring all Authorised Users exit or log off from the Purchased Services at the end of each session, (iv) maintaining the confidentiality of the Account, logins and passwords, and (v) Customer will notify Service Provider immediately of any unauthorised use of Account or any other breach of security. Customer shall be obliged not to disclose access data (login, password etc) to any third party and shall be solely liable for damages caused by disclosing such information and Customer may be held liable for any such losses incurred by Service Provider and/or another party.
3. **Archiving.** Customer's data will be archived continuously at Service Provider's sole discretion. Customer data will be deleted from the Service permanently not longer than 90 days after transmitting PNR record. Backup will be sent to Customer designated storage.

SUPPORT AND SERVICE LEVEL AGREEMENT (SLA)

1. **Support.** Customer support is provided to Customer during the Working Hours. The Customer shall report Errors via e-mail to the following e-mail address: **pnrgo@matic.com.pl** and report of the Error shall include: (1) description of the Error, (2) contact data of the person reporting the Error and (3) the circumstances in which the Error occurred. In case of the Critical Error, emergency phone number **+48 22 543-90-25** is available on working hours. This number is however not designated for regular customer support and shall be used only in case of the Critical Error.
2. **SLA.** Service Provider guarantees the Continuity of Operation for 99,5% of the time in each calendar month of providing Purchased Services. Guarantee of the Continuity of the Operation does not apply to the Trial Services. Service Provider is not responsible for any discontinuity of the operation of the Purchased Services or any malfunction of the Purchased Services, caused by reasons beyond the Purchased Services or beyond the control of Service Provider, including, but not limited to a failure to Customer's Internet connection. The time of discontinuity of this kind shall not be included in the Period of the Dysfunction. Customer shall be entitled to claim from Service Provider contractual penalty in equivalent of the net Subscription Fee (excluding VAT) due for the month in which Service Provider did not meet guarantee of the Continuity of the Operation specified in this Section of the TOS, in case of documented breach of the mentioned guarantee. Contractual penalty is Customer's sole remedy in case of breach of the SLA commitments of Service Provider and is to the exclusion of any remedies at law.
3. **Backup copies.** Service Provider shall make and keep backup copies of the Customer Data. In the case of a failure of the Purchased Services, Service Provider guarantees recovery of all data stored 24 hours before the failure.

LIABILITY

1. Customer acknowledges that the Service Provider Software is a complex software and as such is never free from defects or errors. With the exception of guarantee of Continuity of the Operation specified in Section "SUPPORT AND SERVICE LEVEL AGREEMENT (SLA)" of the TOS, Service Provider does not make and hereby disclaims all warranties including but not limited to express, implied and statutory warranties that the Services will be uninterrupted, error-free, and the implied warranties of merchantability or satisfactory quality, fitness for a particular purpose.
2. In case of Critical Error Customer shall provide PNR information to PIU via agreed emergency procedure at sole responsibility.
3. Under no circumstances shall Service Provider be liable to Customer for loss of revenues, loss of profits, loss of opportunity, loss of business, business interruption, loss of goodwill, damages or penalties paid by Customer to the Customer's contractors or state authorities, costs of any substitute equipment or software, or any indirect, special, incidental or consequential damages, regardless of the theory of liability (contract, tort or otherwise) and even if Service Provider has been advised of the possibility of such damages.
4. The maximum cumulative liability of Service Provider to Customer for any and all claims (whether in contract, tort or otherwise, including contractual penalties) arising out of or in connection with the Subscription Agreement or any additional services commissioned by Customer in connection with the Purchased Services, will not exceed the aggregate amount of net fees (excluding VAT) paid by Customer to Service Provider during the six (6) months immediately preceding the event giving rise to first claim or, if the duration of the Subscription Agreement has been less than six (6) months, such shorter period, as applicable. The existence of one or more claims under the Subscription Agreement will not increase this limit of Service Provider liability.
5. The foregoing limitations and exclusions apply to the extent permitted by law.
6. Customer acknowledges that the fees set forth in the Subscription Agreement reflect the allocation of risk set forth in the Subscription Agreement and the Subscription Agreement is entered into by Service Provider in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the Parties.

PERSONAL DATA PROTECTION

1. To fulfil obligations resulting from Regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, hereinafter defined as the „GDPR”), Parties conclude Entrustment Agreement, which contents includes Attachment no 1 to Terms of Services. If service provider disclosed Services to the Client for a Trial Period, than Parties conclude separate entrustment agreement for a Trial period, at the beginning of Trial period. Contents of this entrustment agreement is disclosed in Attachment no 1 to Terms of Services.
2. In case of Customer being natural person:
3. Service Provider is Personal Data Administrator. In every issue concerning data protection, you can contact Service Provider via: **iod@matic.com.pl**.
4. Client’s personal data is processed in order to conclude and execute Contract. Apart from the Client, who uses only Trial period, Client’s personal data will be collected and processed for Service provider’s accounting purposes.
5. Legal ground of Clients personal data processing is:
 1. Necessity of processing to conclude and execute Contract.
 2. Apart from Client who uses only Trial period – necessity to fulfill Service provider’s legal obligation, concerning Service provider’s accountancy. This obligation results from polish regulations i.e. Tax regulation from August 29th 1997, Accountancy Act from September 29th 1994 and Value Added Tax Act from March 11th 2004.
6. Service provider’s employees, subcontractors, companies that provide services to Service provider (i.e. HR and accounting services, IT and technical support services, archiving and removing of documents) will have access to Client’s personal data, to fulfil their obligations. Client’s personal data may be also disposed to authorized state authorities.
7. Data retention of Client’s personal data:
 1. Client’s personal data processed in order to conclude and execute Contract is kept until Services are provided for the Client, according to Terms of Service. Client’s personal data, i.e.: name, surname and e-mail address will be kept for 5 years after dissolution of the Contract in order to recognize claims and complaints concerning provided Services;
 2. In terms of data processed in order to Service provider’s accountancy purpose, Client’s personal data retention results from applicable legal regulations, concerning termination of tax obligations.
8. Client has right to:
 1. Demand access to his personal data, its correcting, deleting or processing limitation and right to transfer the data,
 2. Submit objection to process his personal data at any time,
 3. Submit complaint to General Personal Data Security Inspector, at 2 Stawki Street, Warsaw. From May 25th complaint may be submitted to supervisory authority i.e. President of Personal Data Protection Department. ,
9. Disclosing the data is vulnerable, although essential to conclude Contract and use Services in accordance to Terms of Service. Contract cannot be concluded and executed and Services cannot be provided, if Client avoids to disclose his personal data.
10. Client’s personal data will not be profiled or used to take a decision in automatic way.

COMPLAINTS

1. All complaints regarding the Services shall be sent via e-mail within 7 days from a disclosure of the reason of such complaint. Only complaints in Polish or English are to be examined.
2. Correctly made complaint shall include at least the following data: (a) Customer's name; (b) first name, second name and e-mail address of person making complaint; (c) the subject of the complaint; (d) circumstances justifying the complaint.
3. Service Provider shall use their best efforts to consider the complaint within 14 days from the day of its receipt from the Customer. Service Provider shall respond to the complaint by an e-mail sent to the address given in the complaint.

4. Complaints resulting from insufficient knowledge of the TOS or legal provisions, complaints submitted not in accordance with the requirements of this Section, as well as complaints with obscene or insulting words, shall not be considered.

CONFIDENTIALITY

1. Any information, data and/or contents of any documents made available by one Party ("Disclosing Party") to another Party ("Receiving Party") pursuant to the terms of the Subscription Agreement, which are not disclosed to the public, shall not, without the prior written consent of the Disclosing Party, be disclosed to any person, firm or corporation not being the Party, including, but not limited to affiliates of the Party, for any purpose other than the implementation of the Subscription Agreement. Such information data and/or contents of documents may be disclosed to officers, employees, consultants or subcontractors of the Receiving Party but only to the extent required in each instance for the implementation of the Subscription Agreement.
2. The confidentiality obligations shall not apply to any information, data and/or content of documents which: (a) was in the Receiving Party's lawful possession prior to the disclosure; (b) is lawfully disclosed to the Receiving Party by a third party without breaching any duty of confidence; (c) is independently developed by the Receiving Party, which can be shown by written evidence; or (d) is required to be disclosed by law.
3. The confidentiality obligations in this Section of the TOS with respect to each disclosed information data, and/or contents of any documents shall continue for three (3) years after the date of initial disclosure of such item and shall survive any earlier termination of the Subscription Agreement.

NOTICES

1. Unless otherwise specified in the Subscription Agreement, any notice, approval, consent, request or other communication required or permitted to be sent under the Subscription Agreement shall be in writing and shall be sent by email, addressed as follows:
To Customer: to the Customer's email address last designated in "PnrGo Account" page.
To Service Provider: pnrgo@matic.com.pl

PARTICULAR RISKS RELATED TO USING SERVICES

1. Pursuant to the requirements of the Polish act of 18 July, 2002 on Providing Services by Electronic Means, the Service Provider informs that particular risks related to using a service provided by electronic means are as follows: (i) the possibility of catching passwords (phishing) by means of fake emails a way as to appear genuine and consequently the acquisition of personal and confidential information about the user, (ii) the possibility of an illegal wiretap involving the use of a computer programme, which goal is to capture and analyse any data flowing on the network (spyware).

COOKIES

1. Cookies are used to store the session ID in which the current state of the application (which user interface elements are currently visible) is stored. Cookies are not used to store any personal data or address data.

FINAL PROVISIONS

1. If any provision of this Terms of Service is determined to be unenforceable for any reason, then the remaining provisions hereof shall remain unaffected and continue to operate in full force and effect.
2. The Subscription Agreement and the Terms of Service and any disputes or claims arising out of or in connection with it or its subject matter are governed by and construed in accordance with the Polish law.
3. Any disputes arising out of or in any way relating to the Subscription Agreement or the Terms of Service or its formation or validity shall be subject to the exclusive jurisdiction of Polish courts competent over the seat of Service Provider.
4. The above points of this Section apply also to any orders or agreements for provision of any additional services commissioned by Customer in connection with the Purchased Services.
5. Neither Party may assign the Subscription Agreement or any of its rights or obligations hereunder without the other's consent.
6. In case the Service Provider intends to change this Terms of Service or terms of the Subscription Plan (i.e. the Services included in the Subscription Plan or the method for calculating of the Subscription Fee, including fees used for the calculation of the Subscription Fee), the Service Provider shall set up an Amendment to the existing TOS and provide it by email to Customer ("Amendment"). The Amendment shall become effective within the term indicated by Service Provider, being not shorter than 30 days from the date when information about the Amendment were sent to the Customer by e-mail, and upon the Parties' written execution of this Amendment.