

ONLINE APPLICATION AND WEB SITE HOSTING TERMS AND CONDITIONS

FastDev Ltd. 2009 www.fastdev.co.uk

FastDev Ltd. is a provider of Internet related services such as online application services and web site hosting, and the Client may from time to time require such services. This Agreement sets out the terms which have been agreed between FastDev Ltd. and the Client for the provision of such Internet services and shall be supplemented from time to time by Schedules setting out specific details of such services requested by the Client.

DEFINITIONS

In this Agreement, unless the context requires otherwise, the following words shall have the following meanings:

"Abuse Complaint" is a complaint, either by FastDev Ltd. or a third party, about the Client's use of the Services;

"Bandwidth" is the data transferred by the Client using the Services to other equipment on the Internet. For the avoidance of doubt, this includes transfer of data between the Services and other equipment hosted by FastDev Ltd.;

"Engineer" is defined as a FastDev Ltd. member of staff with competence in repairing or replacing the Hardware;

"Hardware" means the servers, firewalls, equipment, cabling and systems provided by FastDev Ltd. or its contracted suppliers in connection with the Services;

"IP" means Internet Protocol;

"IPRs" means any and all intellectual property rights including without limit any and all patents, design rights, database rights, copyright, know-how, moral rights, trade secrets, confidential information, trade marks, service marks, trade names and goodwill;

"Latency" is defined as the mean time for a packet to be transmitted between two points in the FastDev Ltd. Network;

"Network Availability" is defined as the percentage of time the FastDev Ltd. Network is contactable over a calendar month;

"Network Unavailable Time" is when a portion or the entirety of the FastDev Ltd. Network is unavailable, and this affects the provision of the Services to the Client. Network Unavailable Time excludes Scheduled Maintenance, and those situations defined in the 'Exclusions' section of the Network Service Level Agreement;

"Notified Maintenance" means essential maintenance to be carried out by FastDev Ltd. in relation to the Services, Hardware and/or Software, which has been notified to the Client;

"Packet Loss" is the number of packets, as a percentage, that do not reach their destination within the FastDev Ltd. Network;

"Power Availability" is defined as the percentage of time the power is available over a calendar

month;

"Quality" refers to two metrics, Latency of the FastDev Ltd. Network and Packet Loss within the FastDev Ltd. Network;

"FastDev Ltd. Network" refers to FastDev Ltd.'s routers, switches, cabling and other network equipment located in the UK responsible for connecting servers hosted by FastDev Ltd. to the outside world;

"Response Time" is defined as the time from the Client making a Support Call to an Engineer commencing work on the Services;

"Schedule" means the schedules and/or Internet/telephone orders to this Agreement from time to time, describing the Internet related services requested by the Client including without limit details of the requested Bandwidth, Hardware and Software;

"Scheduled Maintenance" is defined as maintenance necessary for the continued provision of service, including but not limited to network upgrades and security updates;

"Services" means the Internet related services described in any Schedule made hereunder and which are supplied or to be supplied by FastDev Ltd. on and subject to the terms of this Agreement and any schedules made hereunder;

"SLA" means service level agreement;

"Software" means the computer software provided by FastDev Ltd. in connection with the Services;

"Support Call" is defined as a telephone call by the Client to FastDev Ltd.'s telephone number, published on www.FastDev.co.uk;

GENERAL

The Services shall be as described in this Agreement and any associated Schedules. All Schedules shall be deemed to be an offer from the Client and shall only be deemed accepted by FastDev Ltd. when counter-signed by an authorised representative of FastDev Ltd.. In the event of any conflict between any provision in this Agreement and those in the Schedule then the provision in the Schedule shall prevail.

The Client, where the Client an individual, or the person entering into this Agreement on behalf of the Client, where the Client is an entity, warrants that they are 18 years of age or older, and capable and authorised to enter into this Agreement.

FastDev Ltd. reserves the right at any time and from time to time to amend, improve or correct the Services, Software and/or Hardware (or any part thereof) provided that such modification does not materially affect the overall quality of the Services. This includes the right to substitute the Hardware with Hardware of similar specification, where necessary. FastDev Ltd. shall endeavour to give the Client reasonable notice of such modifications but this may not always be possible and FastDev Ltd. shall not be liable to the Client or to any third party for any such modification or any failure to give such notice

FastDev Ltd. reserves the right at its sole discretion to suspend the Services (temporarily or

permanently) on the occurrence of any unscheduled maintenance or any of the following (each of the following shall be a "Suspension Events"): (i) Notified Maintenance; (ii) issue by any competent authority of an order which is binding on FastDev Ltd. and which affects the Services and which can only be dealt with properly by suspension of the Services; (iii) if the Client fails to pay any amounts due under this Agreement when they are due; (iv) if any events occur which would entitle FastDev Ltd. to terminate this Agreement; (v) the Bandwidth used by the Client in relation to the Services exceeds the agreed level and FastDev Ltd. determines in its sole discretion that such suspension is necessary to protect all and any Internet solutions provided by FastDev Ltd. from time to time.

It is The Client's responsibility to keep the server files up to date. The Client is liable for any legal contracts or end user license agreements as a result of any third party software installed by The Client.

In the event of a server crash, once notified, FastDev Ltd. will endeavour to reboot the Client's server as soon as possible but offer no timed guarantee.

It is the Client's responsibility to notify FastDev Ltd. of contact email address, postal address and telephone number for the Client, and to ensure such contact details are current and up to date at all times.

FastDev Ltd. may provide the Services to the Client from verbal or email order received by it from any authorised person. A person shall be an authorised person for the purpose of this clause if his name is notified via the Client's primary email address.

This Agreement together with the Schedule constitutes the whole and only agreement and understanding between the parties relating to its subject matter and supersedes and extinguishes any drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, between the parties in connection with the subject matter of this Agreement whether existing prior to or at the same time as this Agreement. The Agreement will be on these conditions only, to the exclusion of any other terms and conditions (including any terms and conditions which the Client purports to apply under any purchase order, confirmation of order, specification or other document). The Client's terms and conditions shall not apply to this Agreement.

DURATION AND TERMINATION

This Agreement shall come into effect upon the date of this Agreement and, subject to the provisions of this Agreement shall continue in force for an initial term of 1 month from the date the Services are available to the Client and indefinitely after that until terminated by either party giving not less than 30 days prior written notice to expire on or after the expiry date of the initial term.

Without prejudice to any other rights to which FastDev Ltd. is entitled, FastDev Ltd. may give notice in writing to the Client terminating this Agreement with immediate effect if:

- 1) the Client commits any material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified of the breach;
- 2) an order is made or a resolution is passed for the winding up of the Client;
- 3) an order is made for the appointment of an administrator to manage the affairs, business and property of the Client or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Client or notice of intention to appoint an administrator is given by the Client or its directors or by a qualifying floating charge holder (as defined in paragraph

14 of Schedule B1 to the Insolvency Act (1986);

4) a receiver is appointed of any of the Client's assets or undertaking or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the Client or if any other person takes possession of or sells the Client's assets;

5) the Client makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way;

6) there is a change of the ability to direct the affairs of the Client whether by virtue of the ownership of shares, contract or otherwise of the Client;

7) the Client purports to assign its rights or obligations under this Agreement.

For the avoidance of doubt and without limitation, a breach of any of any of the payment provisions contained in this Agreement, or a breach of the Acceptable Use Policy is a material breach for the purposes of this Agreement.

Refunds will be given only at the discretion of FastDev Ltd..

SUPPORT AND MAINTENANCE

Maintenance and support shall not include services for problems arising out of (a) tampering, modification, alteration, or addition to the Hardware, Software or Web files, which is undertaken by persons other than FastDev Ltd. or its authorised representatives; or (b) software programmes or hardware supplied by the Client.

The Client shall document and promptly report all errors or malfunctions of the Services, Hardware or Software to FastDev Ltd.. The Client shall take all steps necessary to carry out procedures for the rectification of errors or malfunctions within a reasonable time after such procedures have been received from FastDev Ltd. provided the procedures specified are reasonable. The Client shall maintain a current archive copy of all software and data, and shall properly train its personnel in the use of the Services, Hardware and Software.

Any problems caused by the Client to the Services, (which include, but are not limited to, deletion of necessary operating system files, accidental or intentional infection by a virus/Trojan) may result in extra charges to The Client at £30 per 30 minutes, or part thereof. For any work that will take more than two hours we will seek prior authorisation from the Client by telephone, email, fax, or post.

PAYMENT

The Client shall pay the price for the Services as set out in the Schedule. An initial payment is required before any set-up work is carried out. FastDev Ltd. invoices for regular payments annually in advance, unless otherwise agreed in writing.

The price for the Service covers Bandwidth as stated in the Schedule. If the Client exceeds this limit then FastDev Ltd. reserves the right to make additional charges for usage above the limit at its then prevailing charge rate. FastDev Ltd. will endeavour to let the Client know if its bandwidth use exceeds the agreed level, however it is the Client's responsibility to monitor the bandwidth being used by it from time to time using the Control Panel.

All prices quoted to the Client for the provision of services by FastDev Ltd. are exclusive of any value added tax (VAT) for which the Client may be additionally liable at the applicable rate. Where the Services are purchased with a monthly payment plan comprising a set up fee, this fee is payable immediately. Where a long term contract is purchased, the set up fee is included within the total

payment.

The price and all other amounts due under the Schedule shall be paid by the Client by the due date as specified in FastDev Ltd.'s invoice. Time for payment shall be of the essence. Payment shall only be deemed received by FastDev Ltd. upon receipt of cleared funds. Payment shall be made in full without any abatement, set off or deduction on any grounds. FastDev Ltd. reserves the right to suspend the Services in case of late payment. Any exercise by FastDev Ltd. of its right to suspend the Services in the case of late payment shall be without prejudice to any other of its rights under this agreement. Notwithstanding suspension of the Services by FastDev Ltd. the Client shall continue to pay the price for the Services in accordance with the terms of this Agreement until this Agreement is terminated in accordance with the terms of this Agreement. FastDev Ltd. understands and will exercise its statutory right to interest and debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 if not paid according to agreed terms.

FastDev Ltd. reserves the right to exercise a lien over the Client's equipment, where applicable, in respect of any unpaid fees and shall be entitled to sell the equipment after the expiry of thirty (30) days from the termination date in order to recoup any unpaid fees.

FastDev Ltd. reserves the right to send overdue accounts to a debt collection agency. All charges involved in the collection of overdue accounts will be payable by the Client.

CONSEQUENTIAL LOSSES

FastDev Ltd. is not in a position to assess any consequential loss which the Client may suffer as a result of any failure of the Services, or any other default on the part of FastDev Ltd. and it would be impractical and uneconomic for FastDev Ltd. to insure against such liability. Accordingly it is the responsibility of the Client to properly assess any consequential loss that it and/or its clients may suffer and to obtain and maintain adequate insurance in relation to such losses. The Client shall also ensure that it has adequate insurance cover in relation to any loss or damage which may be caused to FastDev Ltd. and/or its clients through the negligence or default of the Client, its employees, agents, or equipment. The Client shall, as and when requested, provide FastDev Ltd. with such evidence as FastDev Ltd. may require in relation to the Client's insurance.

INDEMNITY

The Client agrees to fully indemnify and keep FastDev Ltd., its subsidiaries, affiliates, officers, partners and employees fully indemnified from and against all actions, demands, costs (on a full indemnity basis), losses, penalties, damages, liability, claims and expenses (including but not limited to legal fees) whatsoever incurred by it or them and arising from any of the following: (i) the Client's breach of this Agreement or its negligence or other act, omission or default; (ii) the operation or break down of any equipment or software owned or used by the Client but not the Hardware and/or Software; (iii) the Client's use or misuse of the Services; (iv) the Client infringing (whether innocently or knowingly) third party rights (including without limit IPRs).

DISCLAIMER

Nothing in the Agreement shall exclude or limit the liability of FastDev Ltd. for death or personal injury resulting from its negligence or fraudulent misrepresentation nor affect the statutory rights of consumers.

The Client acknowledges that the allocation of risk in this Agreement reflects the price paid for the Services, Hardware and Software and that it is not within the control of FastDev Ltd. how or for

what purposes they are used. If any exclusion or limit of liability in this Agreement is held to be invalid and FastDev Ltd. becomes liable for loss or damage that may lawfully be limited then such liability shall be limited to the amount paid by the Client for the Services.

FastDev Ltd. shall have no liability to the Client for any loss arising from any material, data or instructions supplied whether digitally or otherwise by the Client or on its behalf which is incomplete, inaccurate, illegible, out of sequence or in the wrong form or arising from late arrival or non-arrival or any other fault by the Client or on its behalf.

No action, claim or demand arising out of or in connection with this Agreement may be brought by the Client against FastDev Ltd. more than one year after the cause of action has occurred.

FastDev Ltd. is not responsible for any delay, malfunction, non performance and/or other degradation of performance of any of the Services, Hardware or Software caused by or resulting from any alteration, modification and/or amendments due to changes and specifications requested or implemented by the Client whether or not beyond those already supplied.

Neither FastDev Ltd. nor anyone else who has been involved in the creation, production or supply of the Services, Hardware or Software shall be liable to the Client or any other person for any loss in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof by reason of or in connection with this Agreement or the Services, Hardware or Software for any: (i) economic loss of any kind whatsoever, or (ii) loss of profit, data, business contracts, revenues or anticipated savings, or (iii) damage to the Client's reputation or goodwill, or (iv) loss resulting from any claim made by any third party, or (v) special, indirect or consequential loss or damage of any nature whatsoever, and the Client shall indemnify FastDev Ltd. from and against any claim which may be made against FastDev Ltd. in respect thereof. Some jurisdictions do not allow the exclusion or limitation of implied warranties or of liability for consequential or incidental damages and therefore the above may not apply to the Client.