

# QMULI AD.FAST USER LICENCE

**BEFORE USING THE AD.FAST SYSTEM, YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS. USING THE AD.FAST SYSTEM INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS.**

**June 2022**

## **DEFINITIONS**

**Ad.fast Invoice Account:** means an account, which may have one or more Users, for which the charges due as a result of validating, re-sizing, fixing, optimising and delivering Files by the said User or Users are calculated on a monthly or quarterly basis and an invoice is then sent via email to the agreed email address for that account;

**Ad.fast Pre-Pay Account:** means a User account, against which a minimum advance amount of money (as detailed in the Ad.Fast price list available on the Site) has been paid, and for which the charges due as a result of validating, re-sizing, fixing, optimising and delivering Files by the said User are deducted from the account's balance at the Time of Delivery;

**Ad.fast PAYG Account:** means a 'Pay As You Go' User account for which the charges due as a result of validating, re-sizing, fixing, optimising and delivering Files by the said User, and which are detailed in the current Ad.Fast price list available on the Site, are payable at the Time of Delivery;

**Ad.fast System:** means the system, accessible at [www.adfast.co.uk](http://www.adfast.co.uk) or at [www.adfast.qmuli.com](http://www.adfast.qmuli.com), including the use of the Programs for the validating, re-sizing, fixing, optimising and electronic delivery of Files to Media Owners;

**Download Confirmation:** means the provision of a date and time record of the event of the download from the Ad.fast System by a Media Owner of an individual File. This information is provided to the via the Ad.fast System tracking pages and is identified within the Ad.fast System as having a status of 'Received' with an associated time/date stamp;

**File:** means a computer document, supplied by a User, in the format (or if more than one, any one of the formats) detailed in Schedule A containing a single piece of artwork and identified on the Ad.fast System by a Tracking Number;

**In Writing:** means by letter or other written communication posted to its address as currently held in a User's User Data, or by email sent to a User at its email address currently held therein;

**Media Owner:** means a newspaper, magazine or internet site publisher, or an Out Of Home site owner, who accepts delivery of Files via the Ad.fast System;

**Optional Services:** means services, made available by Qmuli for additional charges (as detailed on the Site), for the purposes of fixing files that contain errors and/or optimising the colour of files to meet the specifications of the Media Owner. Said services can be selected by the User on a File by File basis;

**Payment Section:** means the section of this Licence, headed 'Payment', that details the methods of payment available to Users to discharge their liabilities in relation to resizing, fixing, optimising and delivering Files;

**Programs:** means software, owned by or licensed to Qmuli, residing on Qmuli's servers that are purposed to facilitate the process of flight checking, re-sizing, fixing, optimising and delivering Files and are accessible by licensed Users with internet browser applications and FTP client applications;

**Publication:** means any publication produced by a Media Owner for distribution either in print or in electronic format;

**Qmuli:** means QMULI LIMITED, Company Number 06029892 whose registered office is at 4<sup>th</sup> Floor, 4 Tabernacle Street, London EC2 4LU;

**Site:** means the Qmuli ad.fast public internet site located at [www.adfast.co.uk](http://www.adfast.co.uk) and [www.adfast.qmuli.com](http://www.adfast.qmuli.com);

**Specification Data:** means any information that provides guidance for the purposes of creating and supplying advertising materials correctly, including (but not limited to) such things as contact names and contact details, sizes, file formats, flight check settings, colour profiles and settings, and delivery methods available. Media Owners intend that said Specification Data shall be available on the Site and freely available to all Users and their agents for these purposes, howsoever it may be used.

**Time of Delivery:** for every instance where a file is being processed for delivery via the Ad.fast System the time of delivery is defined as being at the point when the transaction appears in the tracking system with a status of 'Initiated';

**Tracking Number:** means a unique number issued by the Ad.fast System as a receipt in respect of a particular File when the process of uploading that File to the Ad.fast System is complete;

**User:** means you, normally an advertiser or advertiser's agent. You are responsible for creating and maintaining accurate User Data for the purpose of utilising the Ad.fast System;

**User Data:** means the information held on the Ad.fast System that uniquely identifies each User, commonly known as the user profile. This includes a username and password that are confidential to the User, and also other information (including, without limitation, name, company name, telephone and email address) that accompanies each File to the Media Owner.

## **USE OF THE AD.FAST SYSTEM BY USERS WHO DELIVER FILES**

Access to the Ad.fast System is licensed not given. Users who deliver Files via the Ad.fast System hereby undertake, in most instances, to pay a charge per File delivered. Qmuli grants you a licence both to access and use the Ad.fast System, for each instance of permitted access, strictly and only in accordance with this Licence. You obtain no rights other than those granted you under this Licence.

Qmuli reserves the right to modify the Ad.fast System and the Programs as it sees fit from time to time without prior notice. The Programs contain confidential information belonging to Qmuli and all copyright, trademarks and other intellectual property rights in the Programs are the exclusive property of Qmuli as to its respective rights and ownership therein.

You are responsible for the selection and use of the Programs and for the results obtained from the same. No responsibility will be accepted by Qmuli for your use of any of the Programs on inappropriate or incompatible equipment.

Qmuli cannot be held responsible for ensuring the safe delivery of Files via the Ad.fast System, or for the suitability of Files that have been re-sized, fixed or colour optimised within the Ad.fast System. This Licence does not in any way affect the normal contractual and commercial relationship between the User and the Media Owner.

The User remains responsible for a) the content and colour of Files at all times; b) ensuring the correct File is supplied against any URN provided by the Media Owner (whether via Qmuli systems or otherwise) and c) ensuring and confirming to his satisfaction, the successful delivery of each File.

## **LICENCE PROVISIONS**

Under this Licence, you may use the Ad.fast System to deliver Files without restriction on either the quantity sent or the number of machines used to access the Site, provided that:-

- (a) such Files exclusively contain material for use by the intended Media Owner; and
- (b) a File contains only one piece of artwork; and
- (c) all charges due in relation to the delivery of Files are discharged in accordance with the Payment Section of this Licence.

However, Qmuli reserves the right to impose a maximum size for incoming Files to be accepted, and to alter this maximum as it shall see fit.

Qmuli expressly provides you with permission to use any Publication's Specification Data provided within the Ad.fast System for the purpose of preparation and supply of advertising materials (or for the communication of said data to a third party for that purpose), including incorporating that data into your own database(s). This permission relates only to the manual copying of that data, which is provided 'as is', and specifically excludes permission to capture that data via any form of automated mechanism. Users wishing to download said data via an automated mechanism require the permission of Qmuli. Such permission will be communicated to the User by Qmuli In Writing.

Furthermore, permission to use any Publication's Specification Data will not be granted should any Media Owner specifically prohibit Qmuli from so doing, in respect of Specification Data pertaining to one or more of that Media Owner's Publications.

No responsibility will be accepted by Qmuli or the Media Owners for your use of, or the accuracy of, any of the Specification Data. The Specification Data is provided 'as is' and may be made available to download from the Site in various formats.

YOU SHALL NOT:

- (1) Use the Ad.fast System except as provided in this Licence;
- (2) Modify the Programs and/or merge them into other programs;
- (3) Transfer the possession of the Programs to another party;
- (4) Reverse-assemble or reverse compile the Programs from object code into source code;
- (5) Sub-licence, rent, lease, or assign the Programs; or
- (6) Use any component of the Ad.fast System without registration with, and acceptance by, Qmuli.
- (7) Send, transmit, make available, copy, re-transmit, broadcast or publish (whether directly or indirectly) in whatever form any data, information, material or statement which infringes the intellectual property rights of any person or legal entity or the laws or statutory regulations or contractual rights or laws relating to defamation, contempt, blasphemy, infringement of privacy or personal data rights and any equivalent or related laws in any territory in which they are or may be accessed or made available, nor shall you make use of the Programs or the Ad.fast System provided to you under this Licence for the purposes of attempting or establishing unauthorised access to, or of facilitating a breach in the security devices of, machines, resources or networks without the prior unequivocal consent of the lawful owner of that machine, resource or network;
- (8) Make use or attempt to make use of the Ad.fast System:
  - (a) To facilitate and/or further the publication and distribution of chain letters, unsolicited commercial or electronic mail or mail transmission.
  - (b) To send or cause to be sent or forwarded either a large quantity of data or large numbers of copies of such data at such frequency that it causes any part of the Ad.fast System to become unable to cope with the volume of electronic mail, traffic or data directed at it.
  - (c) To send or forward malicious messages and/or viruses;
- (9) Use or attempt to use the Ad.fast System to forward data to any other person who does not hold a licence from Qmuli to use the Ad.fast System for the receipt of data.

YOU SHALL:

- (1) Without prejudice to the foregoing, take all such other steps as shall from time to time (both during the currency of this Licence and thereafter) be deemed necessary by Qmuli (at its absolute discretion) in order to protect the confidential information and intellectual property rights of Qmuli in the Programs;
- (2) Inform all your relevant employees, agents and sub-contractors that the Programs constitute confidential information belonging to Qmuli and that all intellectual property rights therein are the property of Qmuli (as to its respective interests). You shall take all such steps as shall be reasonably necessary to ensure full compliance by your employees, agents and subcontractors with the provisions of this Licence;
- (3) Adhere to the conditions of the Payment Section and (without prejudice to the generality of the foregoing) discharge your liability to pay the appropriate fee for each File delivered and accept that access to the Ad.fast System may be denied if the terms of that Section are not met;
- (4) Maintain accurate User Data at all times and take all reasonable steps to ensure the confidentiality of your username and password;
- (5) Inform the Qmuli support services immediately, by both telephone to 020 7278 4009 (or such other number as may from time to time be provided and published on the Site) and email to

support@qmuli.com, in the event that you become aware that the confidentiality of your username and password has become compromised;

- (6) Accept responsibility for any charges relating to Files delivered to the Ad.fast System by persons using your username and password until such time as you have informed the Ad.fast System support services that your User's confidential information has become compromised.

## **PAYMENT SECTION**

This Section details the methods available to Users for making payments to Qmuli to discharge their liabilities resulting from delivering Files. Qmuli reserves the right to suspend or terminate use of the Ad.fast System by any Users who fail to discharge their liabilities in accordance with the provisions of this Section and the Scale of Charges.

- (1) Delivering Files and use of the Optional Services generally incurs a charge to the User at the Time of Delivery for each File delivered.
- (2) The Scale of Charges for delivering Files and use of the Optional Services is published on the Site.
- (3) Qmuli reserves the right to amend this Scale of Charges for all Users or for any individual User at any time.
- (4) Where Qmuli decides that a Time of Delivery has occurred in respect of a File it shall be entitled to charge for such delivery, and no refund shall be made to the User thereafter notwithstanding that the File is never downloaded by a Media Owner, or is uploaded in a corrupted form, or is uploaded a second or subsequent time by a User.
- (5) Users can discharge their liabilities in respect of uploading Files and using the Optional Services by using, exclusively, one of the following three methods:
  - (a) By applying the charges to their Ad.fast Invoice Account;
  - (b) By paying at the Time of Delivery via a deduction to their Ad.Fast Pre-Pay Account balance; or
  - (c) By paying at the Time of Delivery, as an Ad.Fast PAYG Account user, using a credit/debit card or PayPal account.
- (6) Any User may apply for an Ad.fast Invoice Account, or to be added to an existing Ad.fast Invoice Account. This must be accepted by Qmuli, who may, at the same time, inform the User (at Qmuli's entire discretion) of any credit limit for the account, and whether invoices will be tendered monthly or quarterly.
- (7) Ad.fast Invoice Accounts are normally only available to bona fide businesses operating within the United Kingdom or the Republic of Ireland.
- (8) Once an Ad.fast Invoice Account has been opened, charges for all Files delivered and use of any Optional Services using any and all Users' usernames and passwords that are associated with that Ad.fast Invoice Account will be debited to that account. Thereafter, the Ad.fast System will raise a monthly or quarterly invoice in respect of Files delivered using that account and shall charge Value Added Tax thereon at the rate prevailing at the date of invoice. Such invoices will be supplied to the Ad.fast Invoice Account holder by email using the address provided by the User for that purpose.
- (9) Invoices raised in respect of Ad.fast Invoice Accounts must be settled within 30 days of the date of their issue. For Ad.fast Invoice Accounts that are settled via Direct Debit, payment will be taken 28 days after the date of invoice issue.
- (10) Qmuli reserves the right, at its entire and sole discretion, to charge the full rate for Files uploaded to the Site, regardless of any volume or other discounts that may have been applied or negotiated, should any charges previously applied to an Ad.fast Invoice Account remain unpaid after 30 days from the date of invoice. The full rate will continue to be charged thereafter until any and all outstanding balances are paid in full.

- (11) Qmuli reserves the right to ban further use of the Ad.fast System via an Ad.fast Invoice Account by any and all Users that are associated with that Account until the outstanding balance is paid in full.
- (12) Qmuli reserves the right to require payment by Direct Debit in respect of any Ad.fast Invoice Account. In the event of a properly completed Direct Debit mandate not being forthcoming following such a request, Qmuli reserves the right to terminate the Ad.fast Invoice Account.
- (13) Qmuli will provide each Ad.fast Invoice Account holder with itemised transaction logs and past invoices upon request (up to a maximum of 12 months prior to the date of the request). Any query in respect of invoices must be made In Writing within 28 days of receipt of invoice.
- (14) If a purchase order is required by the account holder's organization, it is solely the account holder's responsibility to ensure that a valid purchase order number is provided to Qmuli prior to the date each invoice is raised. Qmuli will not accept any failure by the account holder to provide any necessary purchase orders as a valid reason to withhold the payment of any invoice in full.
- (15) Paragraph 14 expressly overrides any contrary paragraph within the terms of business of any Ad.fast Invoice Account holder. Furthermore, in the event of any part of said account holder's terms of business conflicting, or appearing to conflict, with any of the terms of this Licence, the terms within this Licence shall prevail at all times.
- (16) Users without access to an Ad.fast Invoice Account must discharge their liabilities in respect of delivering Files and use of any Optional Services at the Time of Delivery using either an Ad.fast Pre-Pay Account or an Ad.fast PAYG Account. It is solely for the User to decide which of these two to use; AdFast Pre-Pay Account charges are generally cheaper than Ad.fast PAYG charges, but a minimum purchase commitment is required. No advance purchase is required for Ad.fast PAYG Users.
- (17) To obtain an Ad.Fast Pre-Pay Account and the associated charges, a User must make a non-refundable Pre-Pay Purchase, which must equal or exceed the minimum purchase commitment as detailed in the Ad.Fast price list, available on the Site. In order to retain an Ad.Fast Pre-Pay account a User must make additional purchases of at least the minimum purchase commitment each time they top up their account. Payments below the minimum purchase commitment will result in the User's account reverting to an Ad.Fast PAYG Account, with its associated prices.
- (18) For both Ad.fast Pre-Pay and Ad.fast PAYG Users, all purchases must be made using the secure facility provided on the Site for the purpose, using a credit or debit card (or the User's Paypal account) and the User must pay the relevant Value Added Tax thereon at the rate prevailing at the time of purchase.
- (19) Any such User that has any balance on their account will be deemed to be using an Ad.fast Pre-Pay Account and, before delivering a File, such Users will be presented with the charge for delivering the File which is based on Pre-Pay Account charges. Should they not have a sufficient balance on their account to cover the charge, the User is presented with two options:-
  - (a) Make a further minimum Pre-Pay purchase. Thereafter the User can continue to deliver the File and subsequent Files at the Pre-Pay Account charge rates, until such time as their balance drops below what is required for any given File delivery; or
  - (b) Make a further purchase which is less than the minimum Pre-Pay purchase amount in order to deliver the File at the Ad.fast PAYG Account charge rate. Thereafter the User will continue to pay for the delivery of Files at the Ad.fast PAYG Account charge rates.
- (20) At any time an Ad.fast PAYG Account User can revert to the Ad.fast Pre-Pay Account charge rates by adding a further purchase of at least the minimum Pre-Pay commitment to their account.
- (21) Qmuli will maintain a historical report showing the previous six months' activity in respect of each individual User on the Ad.fast System. This report will detail all deliveries and the charge made for each delivery.
- (22) An Ad.Fast Pre-Pay Account Payment will expire after 12 months. If any balance of said pre-payment remains after 12 months, this balance will be reduced to zero. Each and every pre-payment has its

own individual 12-month lifespan and is therefore unaffected by either the expiry of a previous pre-payment balance or the purchase of a further pre-payment.

- (23) Where a User ceases to be eligible to use the Ad.fast System due to breach of the terms of this Licence, any balance held by, or in the name of, such User shall automatically be forfeit without any compensation to the User.
- (24) The use of Ad.fast Pre-Pay Accounts and Ad.fast PAYG Accounts is at Qmuli's sole discretion and Qmuli reserves the right to insist on the User having an Ad.fast Invoice Account, and further to insist that this Ad.fast Invoice Account is settled via Direct Debit.

## **NO WARRANTY**

The Programs are provided by Qmuli "as is". No warranty is given by Qmuli to any User in respect of their functionality or compatibility with any machine, equipment or other software.

THIS CLAUSE AND THE FOLLOWING CLAUSE ARE IN LIEU OF ALL WARRANTIES (OR CONDITIONS), EXPRESS OR IMPLIED, AND SPECIFICALLY EXCLUDE (SUCH EXCLUSIONS NOT BEING LIMITED TO), THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **LIMITATION OF REMEDIES**

Qmuli's entire liability under this Licence is as follows:

- (1) For any claim (including fundamental breach), in any form, related in any way to this Licence, Qmuli's liability will be for actual damages only and will be limited to £10.00.
- (2) No User may bring an action, regardless of form, more than one year after the cause of the action arose.
- (3) These limitations will not apply to claims for personal injury (including death) caused by the negligence of Qmuli or its agents for which it is legally liable.

ALL USERS MUST KEEP BACK UP COPIES OF FILES WHICH THEY DELIVER AND QMULI WILL NOT BE LIABLE FOR:-

- (1) The loss of a File from the Ad.fast System; or
- (2) Any lost profits, lost savings, or for any incidental, or economic or indirect, or consequential loss or damage, even if Qmuli has been advised of the possibility of such loss or damage; or
- (3) Any damages claimed by any User based on any third party claim; or
- (4) Ensuring the safe or timely delivery of Files via the Ad.fast System; or
- (5) Any loss or corruption of data during transmission or for the speed or success of transmission thereof; or
- (5) Any loss or damage to software or computer equipment at any time utilised by a User to access the Ad.fast System; or
- (6) Any downtime where any part of the Ad.fast System is unavailable to Users due to the carrying out of essential maintenance or for any other reason outside Qmuli's control.

## **GENERAL**

- (1) Any additional software that is required by you, the User, to operate the Programs should be separately licensed between you and any third party software provider. Qmuli accepts no responsibility for any third party software licence, and you will indemnify Qmuli to the extent of any cost, loss, damage or liability due to the use, or breach of any licence, of that software.
- (2) You, the User, are responsible for payment of any taxes, including but not limited to Value Added Tax and personal property taxes, resulting from this Licence.

## **ACCEPTABLE USE**

Qmuli reserves the right to terminate this Licence at any time if it becomes aware of the misuse, abuse or illegal use of the Ad.fast System contrary to either this licence, or any statutory regulation or law governing the relationship between Qmuli and its Users.

## **CONTENT OF YOUR DATA**

You undertake that your Files will not contain anything obscene, offensive or defamatory and will conform at all times with this licence. You will indemnify Qmuli and keep it fully and effectively indemnified against all actions, proceedings, claims, demands, damages and costs (including all legal costs on a full indemnity basis) occasioned to Qmuli as a result of any breach of this undertaking.

## **LIFE OF YOUR FILES**

Files will generally be stored on the Ad.fast System for a minimum of six months from the Time of Delivery (or such other shorter period as Qmuli, acting reasonably, shall determine and advise to Users by giving not less than sixty days notice posted on the Site). However, Qmuli reserves the right to:-

- (1) limit the amount of computer storage available to any single User on the Ad.fast System; and
- (2) delete identical multiple copies of a File already held on the Ad.fast System.

During the said period, Files will be available to download by both the User and the Media Owner to whom they were consigned. In the event of the proven deletion by Qmuli of a File from the Ad.fast System within the relevant Period (whether by accident or fault or intentional act of Qmuli) the liability of Qmuli will be restricted to the credit to the User of the relevant charge for re-Upload.

## **DATA PRIVACY**

We will use your data only as permitted by this Licence and our Privacy Policy, available on the Site. You acknowledge and agree that as a part of this Licence, Qmuli may copy your data that you store on our

servers; and we may also retain an archival copy of your data, unless you provide us written notice to delete your data. You shall have sole responsibility for the accuracy, quality, and legality of your data.

## **COOKIES**

The Ad.fast System uses Cookies and by using the Ad.fast System you accept the use of these cookies. For more information about how Qmuli uses cookies please refer to our Cookie Policy, available on the Site.

## **TERMINATION**

You may terminate this Licence at any time, but such termination will not discharge your outstanding obligations under the Payment Section, which must be met by the User forthwith thereafter. Qmuli may terminate your Licence if you fail to comply with any of its terms and conditions, or if you become the subject of a petition in bankruptcy or any other proceeding relating to insolvency, liquidation, or assignment for the benefit of creditors, or if Qmuli, at its sole discretion, elects to discontinue your licence.

## **THIRD PARTY RIGHTS**

No third party shall obtain rights pursuant to this Licence, save for Qmuli who shall have the benefit of the undertakings, exclusions and indemnities in its favour contained herein. Accordingly, save as aforesaid, Qmuli and the User do not intend that any of the terms of this Licence will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person other than Qmuli and the User.

## **JURISDICTION AND LAW**

This Licence is governed by the laws of England and Wales. The User and Qmuli submit to the exclusive jurisdiction of the English Courts.

## **SCHEDULE A – ACCEPTABLE FILE FORMATS**

This schedule details the file formats that can be uploaded onto the Ad.fast System. Files supplied in any other format will not be accepted.

Qmulu reserves the right to amend this list at any time without notice, save for thereafter giving information posted on the Site.

Acceptable formats as at June 2022:

Press ad files: PDF

Digital ad files: BMP, JPG, PDF, PNG, TIF, ZIP