

# AD.FAST PUBLISHER LICENCE

**BEFORE USING THE AD.FAST SYSTEM, INCLUDING ANY OR ALL OF THE AVAILABLE PROGRAMS, YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS. USING THE AD.FAST SYSTEM INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS.**

**Last Update: 1st March 2018**

## DEFINITIONS

**Ad.fast Invoice Account:** means a credit account maintained with Qmuli by, or in respect of, one or more Publishers, to which the charges due as a result of Files being uploaded for delivery to their Publications, together with charges for any additional services provided by Qmuli as a part of the file delivery process, by said Publisher or Publishers are debited;

**Ad.fast System:** means the system, including the use of the Programs, owned by or licensed to Qmuli, for the electronic delivery of Files to Publishers;

**Download Confirmation:** means the provision of a date and time record of the event of the download from the Ad.fast System by a Publisher of an individual File. This information is provided both to the User and the Publisher via the Ad.fast System tracking pages with a status of 'Received';

**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 B containing a single piece of advertisement or other artwork that is identified on the Ad.fast System by a Tracking Number;

**File Download Sections:** means those areas of the Site that allow (utilising the Publisher Programs) incoming Files to be tracked and downloaded;

**In Writing:** means by letter or other written communication, or by email, sent to a Publisher;

**Payment Section:** means the section of this Licence, headed 'Payment', that details the method of payment available to Publishers to discharge their liabilities in relation to Files that uploaded for delivery to their Publications;

**Programs:** means software (owned by Qmuli, or licensed to Qmuli) residing on the ad.fast servers that generates the pages within the Site that are purposed to facilitate the uploading and downloading of Files and are accessible by licensed Users and Publishers with internet browser applications, FTP client applications or via a Qmuli API;

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

**Publication Data:** means any information regarding a Publication that is useful for the fulfillment of ad delivery including, but not necessarily restricted to, publication name, section name, ad size name and dimensions, contact information, colour and technical information;

**Publisher:** means you, a newspaper, magazine or internet site publisher and your registered subsidiaries and/or your or their agents who subscribes to and accepts delivery of Files via the Ad.fast System;

**Qmuli:** means QMULI LIMITED, Company Number 06029892 whose registered office is at 145-147 St John Street, London EC1V 4PY;

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

**Time of Upload:** means the date and time that the Ad.fast System records the arrival of a File, issues the Publisher and the User with a Tracking Number, and is indicated by a status of 'Initiated';

**Tracking Number:** means a unique number issued by the Ad.fast System as an identifier in respect of a particular File delivery;

**User:** means, normally, an advertiser or advertiser's agent who utilises the Ad.fast System for the transmission of Files to Publishers;

## **USE OF THE AD.FAST SYSTEM BY PUBLISHERS**

Access to the Ad.fast System is licensed not sold. Publishers who download Files from the Ad.fast System are hereby subject to and undertake to pay a charge per File uploaded to the Ad.fast System and destined for any of your Publications. Qmulu grants you a licence both to access and use the File Download Sections of the Site as a Publisher, 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.

Qmulu reserves the right to modify the Ad.fast System and the Programs as they see fit from time to time without prior notice. The Programs contain confidential information belonging to Qmulu and all copyright, trademarks and other intellectual property rights in the Programs are the exclusive property of Qmulu as to their respective rights and ownership therein, or are licensed by Qmulu for distribution to, or use by, Users. No responsibility will be accepted by Qmulu for your use of any of the Programs on inappropriate or incompatible equipment.

Qmulu cannot and will not be held responsible for ensuring the safe delivery of Files via the Ad.fast System. This Licence does not in any way affect the normal contractual and commercial relationship between the Publisher and the User. The User remains responsible for the File transmitted until a Download Confirmation is received. Thereafter that Publisher is responsible for the File.

## **LICENCE PROVISIONS**

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

- (a) you only download Files that have been indicated within the Ad.fast System as being intended for you;
- (b) a File has been submitted to the Ad.fast System by a bona fide User; and
- (c) all charges due in relation to incoming Files are discharged in accordance with the Payment Section of this Licence. However, Qmulu reserves the right to impose a maximum size for incoming Files, and to alter this maximum as it shall see fit.

### **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;
- (6) Use any component of the Ad.fast System without registration with, and acceptance by, Qmulu; or

- (7) Facilitate or permit usage of the Ad.fast System by unregistered publishers or their agents or by other parties (other than prospective or existing Users);
- (8) Make use of the Programs or the Ad.fast System provided to you under this Licence by Qmuli 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;
- (9) Make use nor attempt to make use of the Ad.fast System to:
  - (a) facilitate and/or further the publication and distribution of chain letters, unsolicited commercial or electronic mail or mail transmission.
  - (b) 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 the Ad.fast System to become unable to cope with the volume of electronic mail, traffic or data directed at it.
  - (c) send or forward malicious messages and/or viruses.
- (10) Use nor 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;
- (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 their respective interests), or are licensed for use by Qmuli.
- (3) Take all such steps as shall be reasonably necessary to ensure full compliance by your employees, agents and sub-contractors with the relevant provisions of this Licence;
- (4) 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;
- (5) Inform Qmuli of all Publication Data you wish included within the Ad.fast System, and allow Qmuli, acting reasonably, to gather all your Publication Data that Qmuli requires for the purposes of ad processing and delivery.
- (6) Take all such steps as shall be reasonably necessary to ensure that your Publication Data is maintained both in a current and accurate state at all times;
- (7) Promptly inform Qmuli In Writing in the event you receive a request from an individual, for whom Qmuli may hold contact information as a part of your Publication Data, for their personal information to be removed from your records, in order that Qmuli may also remove said information;
- (8) Allow your Publication Data to be made publicly available, in whole or part, by Qmuli, unless specific instructions to the contrary are provided to Qmuli in writing;

- (9) Allow Qmuli to use your Publication Data within the Ad.Fast System for the purposes of flight checking, fixing and processing Files;
- (10) Alert the Qmuli support team if any Publication Data requires either amendment within the ad.fast database, or removal from it;
- (11) Take all such steps as shall be reasonably necessary to ensure that the usernames and passwords used by your employees and agents to access the Ad.fast System remain confidential to the relevant personnel;
- (12) 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.

## **PAYMENT SECTION**

This Section details the method available to Publishers for making payments to Qmuli to discharge their liabilities resulting from Files being uploaded for delivery to their Publications. Qmuli reserves the right to suspend or terminate use of the Ad.fast System by any Publishers who fail to discharge their liabilities in accordance with the provisions of this Section and the Scale of Charges: -

- (1) Uploading Files incurs a charge to the Publisher at the Time of Upload for each File uploaded for delivery to any of the Publisher's Publications.
- (2) The Scale of Charges for Publishers in respect of Files uploaded to any of their Publications is annexed hereto as Schedule A to this Licence.
- (3) Qmuli reserves the right to amend this Scale of Charges at any time.
- (4) Where Qmuli decides that a Time of Upload has occurred in respect of a File it shall be entitled to charge for the upload of the File and no refund shall be made to the Publisher thereafter notwithstanding that the File is never recorded as downloaded, or is uploaded in a corrupted form, or is uploaded a second or subsequent time by a User.
- (5) Publishers can discharge their liabilities in respect of Files uploaded to their Publications by applying the charges to an Ad.fast Invoice Account.
- (6) Once an Ad.fast Invoice Account has been opened in respect of a particular Publisher, charges for all Files uploaded for delivery to any of the Publisher's Publications will be debited to that account. Thereafter, the Ad.fast System will raise a monthly or quarterly invoice in respect of Files uploaded for delivery to said Publications and shall charge Value Added Tax thereon at the rate prevailing at the Time of Upload. Such invoices will be supplied to the Ad.fast Invoice Account holder by email.
- (7) Invoices raised in respect of Ad.fast Invoice Accounts must be settled within 30 (thirty) days of the date of their issue.

## **NO WARRANTY**

The Programs are provided by Qmuli "as is". No warranty is given by Qmuli to any Publisher 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.
- (2) No Publisher may bring an action, regardless of form, more than one year after the cause of the action arose. These limitations will not apply to claims for personal injury (including death) caused by the negligence of Qmuli or its agents for which Qmuli is legally liable.

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 Publisher 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
- (6) Any loss or damage to software or computer equipment at any time utilised by a Publisher to access the Ad.fast System; or
- (7) Any downtime where the Ad.fast System is unavailable to Publishers 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 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 the use of, or breach of any licence of that software causes Qmuli.

- (2) You, the Publisher, are responsible for payment of any taxes, including but not limited to Value Added Tax and personal property taxes, resulting from this Licence.

## **CONTENT OF YOUR DATA**

On discovery that any File contains anything obscene, offensive or defamatory, you will immediately contact Qmuli support services, who will remove the File from the Ad.Fast System forthwith. 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 Publisher 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 Publisher of the relevant charge caused by the re-Upload.

## **DATA PRIVACY**

We will use the Publication Data only as permitted by this Licence and our Privacy Policy, located at [www.qmuli.com](http://www.qmuli.com). You acknowledge and agree that as a part of this Licence, Qmuli may copy your Publication Data and we may also retain an archival copy, unless you provide us written notice to delete said 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, located at [www.qmuli.com](http://www.qmuli.com).

## **TERMINATION**

- (1) You may terminate your Licence with Qmuli at any time, but such termination will not discharge your outstanding obligations under the Payment Section, which must be met forthwith thereafter.
- (2) 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 Publishers or the relationships between Users, Qmuli and Publishers.
- (3) Qmuli may terminate your Licence if you fail to comply with any of its terms and conditions.
- (4) In any such termination event by Qmuli, you, the Publisher, must discharge your outstanding obligations under the Payment Section, which must be met forthwith thereafter.

## **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 Publisher 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 Publisher.

## **JURISDICTION AND LAW**

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



## **SCHEDULE A – SCALE OF CHARGES**

This schedule details the charges payable by Publishers for services provided by Qmulu on and from March 1, 2018 and until further notice in accordance with the terms of this Licence. Notice of any changes to the prices in the Schedule will be advertised on the Site at least 30 (thirty) days prior to the changes coming into effect.

### **CHARGES FOR RECEIVING FILES**

- (1) The basic charge for receiving a file via the Ad.Fast System is £0.50.
- (2) The actual charge applied to Ad.fast Invoice Accounts for each File uploaded to Publications is subject to agreement between Qmulu and individual Publishers.
- (3) VAT, at the then prevailing standard rate, will be applied to all charges where appropriate.

### **CHARGES FOR OTHER SERVICES**

Charges for supplying additional services linked to the Ad.fast System will be negotiated and agreed between Qmulu and the relevant Publisher on an “as needs” basis.

## **SCHEDULE B – ACCEPTABLE FILE FORMATS**

This schedule details the File format(s) that can be uploaded onto the Ad.fast System and which will be supplied thereafter to the intended Publication. 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 format or formats as at 1st March 2018: PDF

Legal notices. Updated March 2018.