



Terms of Service

PLEASE READ THESE TERMS OF SERVICE (THESE "TERMS") CAREFULLY. THESE TERMS ARE A BINDING CONTRACT FOR THE USE OF FASTLY, INC. ("FASTLY") SERVICES.

BY ACCESSING OR USING FASTLY SERVICES YOU ARE ACCEPTING THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT) AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT AND ITS AFFILIATES). IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THE PROVISIONS OF THESE TERMS, DO NOT ACCESS OR USE FASTLY'S SERVICES.

PRICING FOR FASTLY'S SERVICES IS AVAILABLE AT <https://www.fastly.com/pricing>. DOCUMENTATION OF FASTLY'S SERVICES IS AVAILABLE AT <https://docs.fastly.com>. FASTLY'S ACCEPTABLE USE POLICY IS AVAILABLE AT <https://www.fastly.com/acceptable-use>. BEFORE ACCEPTING THESE TERMS AND USING FASTLY'S SERVICES, PLEASE REVIEW THE INFORMATION AT EACH OF THESE ONLINE LOCATIONS.

THESE TERMS WERE LAST UPDATED ON AUGUST 9, 2022. PRIOR VERSIONS OF FASTLY'S TERMS OF SERVICE ARE AVAILABLE AT <https://docs-archive.fastly.com/tos/>

1. Agreement. These Fastly Terms of Service (these "**Terms**") are made by and between the party on whose behalf they are accepted ("**Subscriber**") and Fastly, Inc. ("**Fastly**") and are effective as of the date they are accepted by Subscriber. The complete subscription agreement including these Terms (the "**Agreement**") grants Subscriber a limited subscription to use Fastly's internet intermediary, support, professional, or other services (the "**Services**").

2. Trial Accounts. Unpaid trial and developer accounts are made available for Subscribers to test the functionality of the Services without incurring payment obligations ("**Trial Accounts**"). Once a Subscriber's use of a Trial Account exceeds an equivalent of US\$50 in total usage charges as determined by the rates set forth on <https://www.fastly.com/pricing>, Fastly may suspend the Trial Account unless Subscriber converts its Trial Account to a paid account with a minimum monthly commitment of US\$50. Additional terms and conditions presented to Subscriber in connection with the

registration for a Trial Account shall be binding on Subscriber. Subscribers should review the Documentation (as defined below) thoroughly before executing a Service Order or exceeding US\$50 of usage charges. ALL TRIAL ACCOUNTS ARE PROVIDED “AS IS” AND “AS AVAILABLE” WITHOUT ANY WARRANTY OF ANY KIND. TRIAL ACCOUNTS MAY BE SUSPENDED, TERMINATED, OR DISCONTINUED AT ANY TIME AND FOR ANY REASON (OR NO REASON). FASTLY DISCLAIMS ALL OBLIGATION AND LIABILITY UNDER THE AGREEMENT (INCLUDING LIABILITY OTHERWISE PROVIDED FOR UNDER SECTION 13 (LIMITATION OF LIABILITY)) FOR ANY HARM OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH A TRIAL ACCOUNT, INCLUDING ANY OBLIGATION OR LIABILITY WITH RESPECT TO SUBSCRIBER DATA AND ANY DISRUPTION TO SUBSCRIBER’S OR THIRD PARTY SERVICES CONFIGURED TO WORK WITH THE TRIAL ACCOUNT. ANY CONFIGURATIONS OR SUBSCRIBER DATA ENTERED INTO A TRIAL ACCOUNT, AND ANY CUSTOMIZATIONS MADE TO A TRIAL ACCOUNT BY OR FOR SUBSCRIBER, MAY BE PERMANENTLY LOST IF THE TRIAL ACCOUNT IS SUSPENDED, TERMINATED, OR DISCONTINUED. FASTLY’S INDEMNITY OBLIGATIONS UNDER SECTION 16 (INDEMNIFICATION) DO NOT APPLY TO TRIAL ACCOUNTS.

3. Fastly’s Obligations.

3.1 Services. Fastly will make the Services available to Subscriber according to one or more online or written ordering documents which incorporate the Agreement (each a “**Service Order**”).

3.2 Compliance with Laws. Fastly shall comply with all laws and governmental regulations applicable to the Services.

3.3 Personnel and Performance. Fastly will be responsible for the performance of its personnel (including employees and contractors) and their compliance with the Agreement. Fastly enters into the Agreement on behalf of its Affiliates. An “**Affiliate**” of a party is any entity (a) that the party Controls; (b) that the party is Controlled by; or (c) with which the party is under common Control, where “**Control**” means direct or indirect control (including by ownership) of fifty percent (50%) of an entity’s voting interests.

3.4 Documentation. Fastly will make online documentation available at <https://docs.fastly.com> (the “**Documentation**”) that describes, for each of the Services: (a) the features, functionality, and performance of the Services; (b) the Services’ administrative, physical, and technical safeguards for protection of the security and integrity of the Services (the “**Security Measures**”); (c) data collected by Fastly related to the functional performance of the Services or anomalous activity or suspicious behavior detected by the Services (“**Data Insights**”); (d) service level agreements (each an “**SLA**”) applicable to the Services; (e) certifications and compliance programs applicable to the

Services; and (f) any terms provided in connection with (i) third party technology or services incorporated into the Services or (ii) any distributed software.

3.5 Security Measures. Fastly will maintain the Security Measures consistent with industry standard practices and as described in the Documentation. Fastly will process, transmit, and store the data and information provided to the Services by or on behalf of Subscriber (including content, requests, configurations and credentials) ("**Subscriber Data**") only according to the Agreement and the Documentation. The Services, independent of Subscriber Data, will not transmit code, files, scripts, agents, or programs intended to do harm, including, viruses, worms, time bombs, and Trojan horses ("**Malicious Code**").

3.6 Data Processing. Fastly will process, transmit and store personal data present in Subscriber Data in accordance with the Data Processing Terms available at <https://www.fastly.com/data-processing>. Fastly shall not sell nor disclose any Subscriber Data. Fastly shall not disclose any Data Insights in a manner that identifies Subscriber.

4. Subscriber's Obligations.

4.1 Subscriber Data. As between Fastly and Subscriber, Subscriber is responsible for Subscriber Data and the provision of Subscriber Data to the Services according to the Agreement.

4.2 Personnel and Performance. Subscriber shall be responsible for the performance of its personnel (including employees and contractors) in compliance with the Agreement. Subscriber enters into the Agreement on behalf of its Affiliates that make use of the Services.

4.3 Non-Fastly Services. Subscriber may choose to use or offer services not provided by Fastly ("**Non-Fastly Services**") with the Services and in doing so grants Fastly permission to interoperate with the Non-Fastly Services as directed by Subscriber or the Non-Fastly Services. Unless specified in a Service Order: (a) Fastly does not warrant or support Non-Fastly Services; (b) as between Fastly and Subscriber, Subscriber assumes all responsibility for the Non-Fastly Services and any disclosure, modification or deletion of Subscriber Data by the Non-Fastly Services; and (c) Fastly shall have no liability for, and Subscriber is not relieved of any obligations under the Agreement or entitled to any refund, credit, or other compensation due to any unavailability of the Non-Fastly Services or any change in the ability of Fastly to interoperate with the Non-Fastly Services.

4.4 Third Party Reports. As an intermediary, Fastly may receive notices from third parties ("**Reporters**") regarding Subscriber Data or Subscriber's use of the Services ("**Reports**"). Fastly will forward all Reports directly to an email address provided by Subscriber designated to receive Reports (the "**Abuse Contact**"). Upon receipt of a Report,

Subscriber will (i) acknowledge receipt of such report to Fastly within two (2) business days of receipt and (ii) address the Report within five (5) business days with the Reporter including informing the Reporter that Subscriber (and not Fastly) is the appropriate party to address the matter. Fastly may provide the Abuse Contact to a Reporter inquiring about Subscriber Data or Subscriber's use of the Services.

4.5 Responsibilities. Subscriber (a) shall comply with the Fastly Acceptable Use Policy available at <https://www.fastly.com/acceptable-use> (the "**AUP**"); (b) shall use the Services according to the Documentation; (c) shall be responsible for using commercially reasonable efforts to prevent unauthorized access to or use of the Services; (d) shall promptly notify Fastly of any unauthorized access or use of the Services; (e) shall respond to Reports in accordance with Section 4.4 (Third Party Reports) and take reasonably appropriate action to resolve the reported matter; (f) shall not use the Services to store, transmit or display Subscriber Data for fraudulent purposes or in violation of applicable laws and governmental regulations; (g) shall not make the Services available to, or use the Services for the benefit of, anyone other than Subscriber's own personnel or end users; (h) shall not use the Services to store, transmit or display Malicious Code; (i) shall not interfere with or disrupt the integrity or performance of the Services or any third-party technology contained therein; (j) shall not attempt to gain unauthorized access to any of Fastly's systems or networks; (k) shall not permit direct or indirect access to or use the Services in a way that circumvents a usage limit; (l) shall not sell, resell, license, sublicense, distribute, redistribute, rent, or lease the Services except as integrated with its own offerings that provide additional functionality to its end users; (m) shall not copy the Services or any part, feature, function, or user interface thereof; (n) shall not access the Services or use the Documentation to develop or offer a competitive product or service; (o) shall not reverse engineer the Services (to the extent a restriction on reverse engineering is permitted by applicable law) and (p) upon the termination of an applicable Service Order remove or delete any Fastly software from any Subscriber environment into which it has been installed.

4.6 Service Notices. If Fastly becomes aware that Subscriber may violate Subscriber's obligations under this Section 4 (Subscriber's Obligations), Fastly will notify the Abuse Contact by email (the "**Service Notice**") and request Subscriber to take reasonably appropriate action, including cessation of problematic usage, changing a configuration, updating credentials or removing applicable Subscriber Data. If Subscriber fails to comply with a Service Notice within the time period set forth in the Service Notice, Fastly may suspend Subscriber's access to the Services until the requested action is taken. If Subscriber fails to take the required action within ten (10) days or on two or more occasions during any rolling twelve (12) month period, Fastly may terminate the Agreement immediately for cause. All limitations of access, suspensions, and terminations for cause shall be made in Fastly's sole discretion and Fastly shall not be liable to

Subscriber or any third party for any termination of Subscriber's account or access to the Services.

5. Term and Termination.

5.1 Term. This Agreement is effective during the term of any Service Order that incorporates it. The term of a Service Order shall be specified in the Service Order. Service Orders shall renew for successive terms, unless (a) Subscriber is in breach of this Agreement or (b) Subscriber gives Fastly at least one (1) month's notice of nonrenewal at the end of the applicable term.

5.2 Termination for Cause. In addition to Fastly's right to terminate the entire Agreement under Section 4.6 (Service Notices), Subscriber or Fastly may terminate the entire Agreement for cause upon 30 days' written notice to the other of a material breach if the breach remains uncured at the expiration of the notice period.

5.3 Survival. Any term or condition that by its nature is clearly intended to survive the expiration or termination of the Agreement, shall survive any expiration or termination of the Agreement, including Sections 4.5(m), (n), (o) and (p) (Subscriber's Obligations), Section 7.1 (Fees), Section 7.5 (Refund or Payment upon Termination), Section 8 (Confidentiality), Section 9 (Licenses and Proprietary Rights), Section 13 (Limitation of Liability), Section 14 (Exclusion of Consequential and Related Damages), Section 16 (Indemnification) and Section 22 (Authorized Reseller).

6. Beta Services. From time to time, Fastly may offer services identified as beta, pilot, developer preview, evaluation or by a description of similar import ("**Beta Services**"). Subscriber may accept or decline Beta Services in its discretion. If accepted, Beta Services are provided only for evaluation purposes. Fastly may discontinue Beta Services at any time in its sole discretion and may never make Beta Services generally available. ALL BETA SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND. FASTLY DISCLAIMS ALL OBLIGATION AND LIABILITY UNDER THE AGREEMENT FOR ANY HARM OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH A BETA SERVICE. ANY CONFIGURATIONS OR SUBSCRIBER DATA ENTERED INTO BETA SERVICES, AND ANY CUSTOMIZATIONS MADE TO BETA SERVICES BY OR FOR SUBSCRIBER, MAY BE PERMANENTLY LOST.

7. Fees and Payment.

7.1 Fees. Subscriber will pay all fees specified in Service Orders and provide accurate and updated billing contact information. Minimum commitments in Service Orders are (a) based on Services purchased and not actual usage; (b) non-cancelable; and (c) cannot be decreased during the specified term. Fees paid for minimum commitments and actual usage are not refundable. Subscriber's payments of fees are neither (x) contingent on the

delivery of any future functionality or features nor (y) dependent on statements not set forth in the Agreement.

7.2 Invoicing Terms. If the Service Order specifies that payment will occur by a method other than a credit card, Subscriber will provide a purchase order number in the applicable amount (or reasonable alternative proof of Subscriber's ability to pay the fees specified in a Service Order), and promptly notify Fastly of any changes necessary for payment of an invoice. Fastly will invoice Subscriber either monthly or according to the billing frequency stated in the Service Order. Invoices to be paid by credit card are due on the invoice date, all other invoices are due net 30 days from the invoice date. If any invoiced amount is not received by Fastly by the due date, then without limiting Fastly's rights or remedies: (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, (b) Fastly may condition future subscription renewals and Service Orders on shorter payment terms or (c) provide a notice to Subscriber with a notice of non-renewal for all outstanding Service Orders. If Subscriber is paying for Services by credit card, Subscriber will provide Fastly with valid credit card information and promptly notify Fastly of any changes necessary to charge the credit card. The provision of credit card information to Fastly authorizes Fastly to charge the credit card for all Services specified in a Service Order, and any renewal subscription.

7.3 Suspension of Service and Acceleration. If any amount owing by Subscriber is 30 or more days overdue (or 10 or more days overdue in the case of invoices to be paid by credit card), Fastly may, without limiting any rights and remedies, accelerate Subscriber's unpaid fee obligations to become immediately due and payable, not renew any Service Order, and suspend the provision of Services to Subscriber until the overdue amounts are paid in full. Fastly will give Subscriber at least 10 days' prior notice that its account is overdue, in accordance with Section 18 (Manner of Giving Notice), before suspending services to Subscriber.

7.4 Payment Disputes. Fastly will not exercise any rights to suspend Services, accelerate payments, impose late charges or change payment terms under Section 7.2 (Invoicing Terms) with respect to an overdue amount for so long as Subscriber is disputing the overdue amount in good faith. The parties shall cooperate diligently to resolve the dispute.

7.5 Refund or Payment upon Termination. If Subscriber terminates the Agreement in accordance with Section 5.2 (Termination for Cause), Fastly will refund any prepaid fees covering the remainder of the term of all Service Orders after the effective date of termination. If the Agreement is terminated by Fastly in accordance with Section 5.2 (Termination for Cause), Subscriber will pay any unpaid fees covering the remainder of the term of all Service Orders. In no event will termination relieve Subscriber of its obligation to pay any fees payable for the period prior to the effective date of termination.

7.6 Taxes. Fees for Services do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use, or withholding taxes assessable by any jurisdiction whatsoever (collectively, “**Taxes**”). Subscriber is responsible for paying all Taxes associated with its Service Orders. If Fastly is obligated by law to pay or collect Taxes for which Subscriber is responsible, Fastly will invoice Subscriber and Subscriber will pay that amount unless Subscriber can provide a valid tax exemption certificate authorized by the appropriate taxing authority. Subscriber will provide Fastly any information Fastly reasonably requests to determine whether Fastly is obligated to collect Taxes. Fastly is solely responsible for taxes assessable against its income, property, and employees.

8. Confidentiality.

8.1 Confidential Information. “**Confidential Information**” means all information about the relationship created by the Agreement disclosed by a party (“**Discloser**”) to the other party (“**Recipient**”), whether orally or in writing, that is designated as confidential or, given the nature of the information and the circumstances of disclosure, should be understood to be confidential. Confidential Information of each party includes the terms and conditions of the Agreement and all Service Orders, including pricing, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed in connection with the Agreement. Confidential Information does not include information that: (a) is at the time of disclosure, or later becomes, generally known to the public through no fault of Recipient; (b) was known to the Recipient with no obligation of confidentiality prior to disclosure by Discloser, as proven by records of Recipient; (c) is disclosed to Recipient by a third party who did not directly or indirectly obtain the information subject to any confidentiality obligation; or (d) is at any time independently developed by Recipient as proven by records of Recipient.

8.2 Protection of Confidential Information. Except as provided in Section 8.3 (Compelled Disclosure) Recipient shall not disclose or otherwise make available any Confidential Information of the Discloser to anyone except those of its employees, attorneys, agents and consultants who: (a) need to know the Confidential Information in connection with the purpose of the Agreement and (b) who have previously agreed to be bound by confidentiality obligations no less stringent than those in the Agreement. Each party shall safeguard all Confidential Information of the other party with at least the same degree of care (but no less than reasonable care) as it uses to safeguard its own confidential information.

8.3 Compelled Disclosure. If the Recipient is compelled by law to disclose Confidential Information of the Discloser, then to the extent legally permitted, Recipient shall provide the Discloser with prior notice of the compelled disclosure and reasonable assistance, at Discloser’s cost, if the Discloser wishes to contest the compelled disclosure. Any

compelled disclosure shall be limited to the extent required, and shall be subject to confidentiality protections to the extent practicable. If the Recipient is compelled by law to disclose the Discloser's Confidential Information as part of a civil proceeding to which the Discloser is a party, and the Discloser is not contesting the disclosure, the Discloser will reimburse the Recipient for its reasonable cost of compiling and providing secure access to that Confidential Information.

9. Licenses and Proprietary Rights.

9.1 Subscriber Data. Subscriber grants Fastly a worldwide, non-exclusive, revocable, and limited license during the term of Subscriber's use of the Services to process, transmit, and store Subscriber Data, and to interoperate with any Non-Fastly Services as necessary in order for Fastly to provide the Services in accordance with the Agreement. Subject to this limited license, Fastly acquires no right, title, or interest from Subscriber under the Agreement in or to Subscriber Data.

9.2 Feedback. Subscriber grants to Fastly a worldwide, perpetual, irrevocable, royalty-free permission to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction, or other feedback provided by Subscriber.

9.3 Deliverables. Fastly grants Subscriber a worldwide, perpetual, non-exclusive, non-transferable, royalty-free license to use for its internal business purposes anything developed by Fastly for Subscriber and delivered by Fastly to Subscriber in connection with support or professional services ("**Deliverables**"). Subject to Subscriber's ownership of its proprietary and Confidential Information disclosed to Fastly under Section 8 (Confidentiality) Fastly shall retain all ownership rights to the Deliverables.

9.4 Proprietary Rights. The Services, the Documentation and the Data Insights are the proprietary information of Fastly. Fastly grants Subscriber a worldwide, non-exclusive, non-transferable, royalty-free license to use the Documentation, and the software and application programming interfaces made available by Fastly to Subscriber as part of the Services, solely as necessary to make use of the Services during the term of any applicable Service Order. Subject to the limited rights expressly granted in the Agreement, Fastly and Fastly's licensors reserve all right, title, and interest in and to the Services, the Documentation, and the Data Insights, including all related intellectual property rights. No rights are granted to Subscriber except as expressly set forth in the Agreement. No rights are granted to Fastly except as expressly set forth in the Agreement.

10. Government Rights. The Services may include access to software. In such case, such software is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if Subscriber is an agency of, or contractor to, the US Government, it receives only those rights with respect to such software as are granted to all other end users under

license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors. If Subscriber is a government agency that has a need for rights not granted under the Agreement, it must negotiate with Fastly to determine if there are acceptable terms for granting those rights, and mutually acceptable written terms specifically granting those rights must be included in any applicable agreement.

11. Export Compliance. The Services and the Documentation may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Subscriber shall not enable use of the Services in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan, or Syria) or in violation of any U.S. export law or regulation.

12. Anti-corruption. Neither party has received or been offered any bribe, kickback, illegal or improper payment, gift, or thing of value from any of the personnel or agents of the other party in connection with the Agreement, other than reasonable gifts and entertainment provided in the ordinary course of business. If Subscriber becomes aware of any violation of the above restriction, Subscriber will promptly notify Fastly's General Counsel at gc@fastly.com.

13. Limitation of Liability. A PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT WILL NOT EXCEED THE AMOUNT PAID BY SUBSCRIBER HEREUNDER IN THE 12 MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT SUBSCRIBER'S PAYMENT OBLIGATIONS UNDER SECTION 7 (FEES AND PAYMENT) OR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 16 (INDEMNIFICATION).

14. Exclusion of Consequential and Related Damages. IN NO EVENT WILL A PARTY HAVE ANY LIABILITY TO ANY OTHER PARTY FOR ANY LOST PROFITS, LOST OPPORTUNITIES, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION, OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THESE TYPES OF DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

15. Warranties.

15.1 Services Warranty. In addition to its obligations under the Agreement, Fastly warrants that during the term of each Service Order that: (a) the Services will perform materially as

set forth in the Documentation; (b) the features, functionality and performance of the Services will not be materially decreased; (c) the overall effectiveness of the Security Measures will not be decreased; (d) use of the Services, including the software components, in accordance with the Documentation, will not impose any additional obligations on Subscriber to grant any rights to its intellectual property or to disclose or make any of its own proprietary technology available to any third party; and (e) Subscriber's obligations will not be materially increased as a result of an update to the Documentation or the AUP. Without limiting Fastly's obligations pursuant to Section 3 (Fastly's Obligations), Subscriber's exclusive remedies for a breach of a warranty in this Section 15.1 (Services Warranty) shall be (i) to the extent applicable, allow Fastly to repair or replace a non-conforming software component or (ii) to exercise the express rights described in Sections 5.2 (Termination for Cause) and 7.5 (Refund or Payment upon Termination), and to the extent applicable, to claim the credits set forth in the applicable SLA.

15.2 Support and Professional Services Warranty. The support and professional services specified in the applicable Service Order will be performed in a professional and workmanlike manner, in accordance with generally accepted industry standards. Subscriber's exclusive remedies for breach of the warranty in this Section 15.2 shall be either (a) re-performance of the Support or Professional Services by Fastly; (b) to claim the credits set forth in the applicable SLA; or (c) to exercise the express rights described in Sections 5.2 (Termination For Cause) and 5.5 (Refund or Payment upon Termination).

15.3 Disclaimers. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 15, NEITHER PARTY MAKES ANY WARRANTY OR GUARANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER IMPLIED, EXPRESS, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

16. Indemnification.

16.1 Indemnification by Fastly. Fastly will indemnify and defend Subscriber against any and all third party claims, demands, suits or proceedings (each a "**Claim Against Subscriber**") and all related judgments, liabilities, awards, damages, costs, including reasonable attorneys' fees and expenses, arising out of or in connection with, or alleging the Services or use of the Services by Subscriber in accordance with the Agreement infringe or misappropriate the third party's intellectual property rights, provided Subscriber (a) promptly gives Fastly written notice of the Claim Against Subscriber; (b) gives Fastly sole control of the defense and settlement of the Claim Against Subscriber (except that Fastly may not settle any Claim Against Subscriber unless it unconditionally releases Subscriber of all liability related to the Claim Against Subscriber); and (c) gives Fastly all

reasonable assistance, at Fastly's expense. If Fastly receives information about an infringement or misappropriation claim related to the Services, Fastly may in its discretion and at no cost to Subscriber (x) modify the Service so that it no longer infringes or misappropriates, without breaching Fastly's obligations under Section 3 (Fastly's Obligations); (y) obtain a license for Subscriber's continued use of that Service in accordance with the Agreement; or (z) terminate Subscriber's subscriptions for that Service upon 30 days' written notice and refund Subscriber any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply to a Claim Against Subscriber that result, in whole or in part, from Subscriber Data, a Non-Fastly Service, the use or combination of the Services with hardware, software, data, or processes not provided or specified by Fastly, if the Services or their use would not infringe third-party rights absent such combination, any intellectual property claim(s) known to Subscriber prior to its subscription to the Services, or Subscriber's breach of the Agreement.

16.2 Indemnification by Subscriber. Subscriber will indemnify and defend Fastly against any and all third party claims, demands, suits or proceedings (each a "**Claim Against Fastly**") and all related judgments, liabilities, awards, damages, costs, including reasonable attorneys' fees and expenses, arising out of or in connection with (i) Subscriber Data, or (ii) Subscriber's use of the Services in breach of the Agreement, provided Fastly (a) promptly gives Subscriber written notice of the Claim Against Fastly; (b) gives Subscriber sole control of the defense and settlement of the Claim Against Fastly (except that Subscriber may not settle any Claim Against Fastly unless it unconditionally releases Fastly of all liability related to the Claim Against Fastly); and (c) give Subscriber all reasonable assistance, at Subscriber's expense. The above defense and indemnification obligations do not apply to a Claim Against Fastly that result, in whole or in part, from the Services or Fastly's breach of the Agreement. Except with respect to a dispute between Subscriber and Fastly, Subscriber will reimburse Fastly for all costs and reasonable attorneys' fees for responding to third party or governmental requests for information arising out of or in connection with Subscriber Data or Subscriber's use of the Services.

16.3 Additional Indemnified Parties. For purposes of this Section 16, (a) a Claim Against Fastly shall include a claim against Fastly, Fastly's Affiliates, and Fastly's or its Affiliates' officers, directors, and employees and (b) a Claim Against Subscriber shall include a third-party claim against Subscriber, Subscriber's Affiliates, and Subscriber's or its Affiliates' officers, directors, and employees; provided no indemnified party shall be entitled to any form of equitable or implied indemnification at any time.

16.4 Exclusive Remedy. This Section 16 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section 16.

17. Assignment.

17.1 Either party may assign the Agreement in its entirety, without the other party's consent (a) to its Affiliate or (b) in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, unless the Subscriber is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of Fastly, in which case Fastly may, but is not required to, terminate the Agreement upon written notice, and in the event of such a termination, Fastly will refund to Subscriber any prepaid fees covering the remainder of the initial term of all Service Orders.

17.2 Except as permitted in Section 17.1, neither party may assign any of its rights or obligations under the Agreement, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld).

17.3 The Agreement will bind and inure to the benefit of the parties, their respective successors, and permitted assigns.

18. Manner of Giving Notice.

18.1 Updates. All updates to the Documentation will be posted to <http://docs.fastly.com/changes>, and may be subscribed for using email or rich site summary or a successor protocol ("**RSS**"). Posted updates to (a) the AUP or (b) the Documentation that reflect (i) a reduction in the features, functionality or performance of the Services, (ii) changes to the Security Measures or (iii) a significant increase in Subscriber's obligations ("**Significant Updates**") may be separately subscribed for using email or RSS. Updates to the Documentation will be effective upon posting; provided, these updates shall not limit the warranties made by Fastly in Section 15.1 as of the start of the term of a Service Order. Updates to the AUP will be effective thirty (30) days after posting.

18.2 Except as otherwise specified in the Agreement, all notices, permissions and approvals shall be in writing and shall be deemed to have been given upon (a) personal delivery; (b) the second business day after mailing; or (c) the first business day after sending by email (provided email shall not be sufficient for notices of an indemnifiable claim). Billing-related notices to Subscriber shall be addressed to the relevant billing contact designated by Subscriber. All other notices to Subscriber shall be addressed to the relevant Services system administrator or other person designated by Subscriber in writing, or, if applicable, as set forth on the Cover Page to the Agreement. Notices to Fastly should be addressed to gc@fastly.com or Fastly, Inc. Attn: General Counsel, PO Box 78266, San Francisco, CA 94107.

19. Governing Law and Jurisdiction. The governing law of California and controlling United States federal law will apply in any lawsuit arising out of or in connection with the Agreement and the Federal or state courts located in San Francisco, California, USA have exclusive jurisdiction over any such lawsuit. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

20. Relationship of the Parties. The parties are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

21. Third-Party Beneficiaries. Subscriber acknowledges that Fastly's licensors and technology providers have required Fastly to agree to certain provisions with Subscriber, including Sections 4 (Subscriber's Obligations), 9 (Licenses and Proprietary Rights), 13 (Limitation on Liability), 14 (Exclusion of Consequential and Related Damages) and 16 (Indemnification). There are no third-party beneficiaries under the Agreement, AUP or the Documentation.

22. Authorized Reseller. If Subscriber has validly purchased Services through a reseller authorized by Fastly (an **"Authorized Reseller"**) under an ordering document that binds the Subscriber to the terms of this Agreement (a **"Reseller Order"**), then Fastly will make the validly purchased Services specified in the Reseller Order available to Subscriber. Fastly may share information regarding Subscriber with the Authorized Reseller when necessary for providing the Services or as needed for the Authorized Reseller to perform services for the benefit of Subscriber. A Reseller Order shall be a Service Order for purposes of this Agreement, provided that, (a) Sections 7.1, 7.2 and 7.6 of this Agreement shall not apply; (b) Fastly will seek payment for all fees associated with Subscriber's use of the Services from the Authorized Reseller, (c) any refunds or credits will be issued to the Authorized Reseller; (d) if any amount owing by an Authorized Reseller for Subscriber's use of the Services is overdue, Fastly may, without limiting any rights and remedies, suspend the provision of Services to Subscriber until the overdue amounts are paid in full; (e) amounts paid by Subscriber to the Authorized Reseller for Services subscribed for by Subscriber shall be deemed to be payments made by Subscriber hereunder for purposes of Section 13 (Limitation of Liability); and (f) a Reseller Order cannot modify or take precedence over the Data Processing Terms, the Agreement, the AUP, or the Documentation.

23. Entire Agreement. The Agreement supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter. In the event of any conflict or inconsistency among the following, the order of precedence shall be: (i) the Data Processing Terms, (ii) the applicable Service Order (other than a Reseller Order), (iii) the Agreement, (iv) the AUP and (v) the Documentation. Fastly and Subscriber each represent that it has validly entered into the Agreement and has the legal

power to do so. Any term or condition stated in a Subscriber online supplier portal click-through, purchase order or other Subscriber order documents (excluding Service Orders) is void. No modification, amendment, or waiver of any provision of the Agreement will be effective unless it exists in writing and is signed by the party against whom the modification, amendment, or waiver is to be asserted. No failure or delay by either party in exercising any right under the Agreement will constitute a waiver of that right. If any provision of the Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of the Agreement will remain in effect.

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- Professional services
- Network status

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