

Updated 3rd December 2024

Terms and Conditions of DataCamp Limited

PLEASE READ THIS DOCUMENT CAREFULLY BEFORE SIGNING, EXECUTING, OR PLACING YOUR ORDER FOR ANY CDN77 SERVICES. BY ORDERING OUR SERVICES, YOU AGREE TO BE BOUND BY THE MOST RECENTLY AMENDED VERSION OF THIS AGREEMENT.

DEFINITIONS

“**Agreement**” means these Terms and Conditions, the Service Specification, the AUP, the SLA, other policies and documentation available on the Website and any additional documents entered into between the Parties.

“**AUP**” means the Supplier’s Acceptable Use Policy currently available at <https://cdn77.com/legal/>, as it may be updated by the Supplier from time to time.

“**CDN Credit**” means a prepaid balance funded by the Customer, which is used to pay for Services, including but not limited to additional usage charges, overages, or other ancillary services.

“**Customer**” means you, who placed the Service Order or executed a similar document with reference to this Agreement.

“**Customer Users**” means Customer's employees, subscribers, end-users, and any other parties who are given direct or indirect access to the Services by the Customer.

“**Defect**” means a material failure or deficiency where the Services do not meet the requirements specified in the Service Order or any other referenced documents.

“**Effective Date**” means the date that the Customer accepted the terms of this Agreement by creating a Service Order via clicking the “Create account” button on the Website.

“**Monthly Plans**” mean service plans provided on a monthly basis, where the Customer agrees to pay a specified amount of Service Fees each month in exchange for Services.

“**Party**” means the Customer or the Supplier (collectively referred to as “**Parties**”).

“**Pay-As-You-Go**” means a payment model in which the Customer is charged incrementally based on actual usage of the Services, rather than a fixed fee for a predefined time period. CDN Credits, funded by Customer payments, are deducted proportionally as Services are utilized.

“**Services**” mean all of the Supplier’s services as set forth in any applicable Service Order (or as otherwise agreed by the Parties) that the Supplier provides to Customer pursuant to this Agreement.

“**Service Fees**” mean any fees and charges associated with Services to be performed and/or already provided.

“**Service Order**” means an online or offline order for Services, which may include service specification, price, quantity and commitment for such Services.

“**Service Specification**” means specification of Services as described on the Website describing the particular Services that the Customer has purchased based on the description as it stands on the Effective Date

“**Supplier**” means DataCamp Limited, a company incorporated and registered in England and Wales with number 07489096, whose registered office is at 9 Coldbath Square, London, United Kingdom, EC1R 5HL.

“**Trial Period**” means a period of maximum of 30 days, unless otherwise agreed upon, in which the Supplier may provide Services free of charge as a promotion for testing for the Customer

“**Website**” means www.cdn77.com or other websites, portals and similar web resources run by the Supplier for the purpose of providing Services or managing Customers' accounts.

1. Overview

- 1.1. The Supplier agrees to deliver the Services detailed in the order for the therein specified Service Fees.
- 1.1. The initial service term of this Agreement shall begin on the Effective Date, and shall continue indefinitely unless terminated in accordance with the terms of this Agreement.
- 1.2. The Customer agrees to pay Service Fees to the Supplier and to provide necessary assistance to the Supplier.
- 1.3. The Customer represents and warrants to the Supplier that (i) the information the Customer has provided and will provide to the Supplier for purposes of establishing and maintaining Services is accurate; (ii) the Customer has not been previously suspended or banned from the use of Services; (iii) the Customer's use of Services is compliant with all applicable laws and regulations; (iv) the Customer has the authority to enter into this Agreement and perform its obligations hereunder; and (v) if the Customer is a natural person, they are at least 18 years of age.
- 1.4. The Supplier may modify Service Specification at will. Should the Service Specification change subsequent to the Effective Date, the Supplier has no obligation to modify Services to reflect such a change.
- 1.5. The Customer acknowledges that all intellectual property rights in Services and any modification belong and shall belong to the Supplier, and the Customer shall have no rights in or to Services other than the right to use it in accordance with the terms of this Agreement.
- 1.6. The Supplier reserves the right to make changes to these terms at any time. To the extent the Supplier is able, the Supplier will give the Customer advance notice of these changes. If these changes materially affect the Customer's ability to use services, the Customer may terminate this Agreement within 30 days of such a change. Otherwise, the Customer's continued use of Services is the Customer's consent to be bound by the changes.
- 1.7. In the case of conflict or ambiguity between any provision contained in the body of this Agreement and any provision contained on the Website, the provision in the body of this Agreement shall take precedence.
- 1.8. Questions about the terms of this Agreement should be directed to the email address support@cdn77.com.
- 1.9. It is understood and agreed by both the Customer and the Supplier that communication in writing includes, but is not limited to, emails and that such communication is to be addressed by the Customer to sales@cdn77.com and by the Supplier to the Customer's email address as provided at sign-up, or any other email address mutually agreed upon by the Customer and Supplier..
- 1.10. Should any addendum to this Agreement or additional appendix or service agreement be concluded between the Supplier and the Customer, any clause in such agreement shall have precedence over clauses set out in these Terms & Conditions.

2. Payment

- 2.1. It is at the discretion of the Supplier to change without prior notice the terms of the Trial Period, including but not limited to the duration.
- 2.2. The Supplier may require payment before the provision of Services.
- 2.3. The Customer is fully responsible for the accuracy and completeness of all information provided (such as change in billing or mailing address, credit card expiration) and timely notification of changes of such information. The Supplier is not responsible for any misunderstanding resulting from failure to notify of these changes by the Customer.
- 2.4. The Supplier may increase its fees for services. The Supplier has to notify the customer of such an increase via the email provided by the Customer. The Customer is entitled to terminate this Agreement during a 30 day period following such an increase. If the Customer does not give a written notice of non-renewal, the Customer shall be deemed to have accepted the new fees. The above is not applicable for Customers with

individual price offers. Increase in fees for a Customer with an individual price offer is based on separate contractual addendums.

- 2.5. The Customer cannot withhold any payment to the Supplier due to issues related to quality or availability of Services.
- 2.6. The Customer acknowledges that the Service Fee's amount is calculated for the entire initial service term, or entire renewal term, as applicable.
- 2.7. All payments are non-refundable unless explicitly stated otherwise or required by applicable law.
- 2.8. If the Customer believes that there is an error in the Service Fee calculation, the Customer has the right to request a settlement for Services.
- 2.9. Funds deposited into the prepaid "Pay As You Go" Customer's account as a Service Fee expire after a period of 365 days. Any unused account balance is forfeited upon expiration. If money is added to the Customer's account before the current balance expires, the existing balance will carry over to the new expiration date. The Supplier reserves the right to cancel Customer's account 14 days after expiration.
- 2.10. All funds deposited for Monthly Plans are non-refundable and cannot be carried over to subsequent billing periods. Any unused traffic from a prior service period is not transferable to the current or future service periods. Additionally, refunds for unused traffic are not available, either in monetary form or as CDN credit.
- 2.11. All Monthly Plan payments must be prepaid in full before the start of the respective month of Services. If a Customer has enabled the Monthly Plan Auto-renewal feature, payments are automatically made on the last day of the month preceding the month of Services. The auto-renewal function can be disabled by the Customer anytime at <https://client.cdn77.com/billing/payment-settings>.
- 2.12. The Customer may change their Monthly Plan and its respective traffic volume based on information described on the Website. The Customer acknowledges that any such change will take effect the upcoming unpaid service period. This clause applies on a month-to-month basis, applicable to Monthly Plans only. Any possible changes to the long-term (commitment-based) packages are subject to additional agreements between the Customer and the Supplier.
- 2.13. All Monthly Plans are purchased on a calendar month basis. Services will commence only after the required payments are made in full. The payment schedule depends on the date of signup as follows:
 - If the Customer signs up and pays between the 1st and 14th day of the month, they will pay only the pro-rata amount for the remainder of the current month.
 - If the Customer signs up and pays between the 15th and the last day of the month, they will pay the pro-rata amount for the remainder of the current month as well as the full payment for the subsequent month.
- 2.14. If the Customer exceeds the allotted amount of traffic in their chosen Monthly Plan, they are required to recharge their CDN Credit and keep it in a positive balance as the payments for any overage traffic are deducted from the credit on a Pay-As-You-Go basis. Insufficient credit to cover overage traffic deductions may lead to service suspension. Overage traffic payments are subject to the pricing information as described on the Website unless otherwise agreed upon between the Customer and the Supplier.
- 2.15. All invoices are issued by the Supplier automatically within 72 hours of the payment and are available in the billing section of the client portal on the Website.
- 2.16. If previously agreed, the Supplier might issue a draft or tax invoice prior to the payment. Payment for such invoices is due within seven days unless agreed otherwise.
- 2.17. If the Customer fails to pay the full amount by the invoice due date, the Customer is obliged to pay a contractual penalty of 0.1% of the amount due for each day of the delay plus all costs, including reasonable attorneys' fees, incurred to collect any unpaid amounts. The application of the contractual penalty does not affect the Customer's obligation to pay the amount due in any way.

3. Warranties and limitation of liability

- 3.1. The Supplier represents and warrants that Services will conform in all material aspects to the Service Specification. If the Customer notifies the Supplier in writing of any Defect in the Services, provided that the Defect is not due to misuse by the Customer or anyone authorized by the Customer, the Supplier will, at their discretion, take one of the following actions: (i) replace Services; (ii) repair Services; or (iii) terminate this Agreement immediately by written notice to the Customer and refund any Service Fees paid by the Customer as of the termination date (less a reasonable sum in respect of the Customer's use of Services to date of termination). The Customer shall provide all the information necessary to resolve the Defect in the Services.
- 3.2. The Supplier does not represent or warrant that (i) Services will be error-free or accessible at all times (ii) the delivery of Services will be uninterrupted or without delay; or (iii) the Defects will be corrected.
- 3.3. The Customer represents and warrants that they have the experience and knowledge necessary to use Services and that they will provide the Supplier with documentation required for implementing the Services without additional effort from the Supplier.
- 3.4. The Supplier shall not be responsible for unauthorized access to or alteration of the Customer's data.
- 3.5. The Supplier shall not be responsible for services provided by third parties, regardless of whether those services appear to be provided by the Supplier.
- 3.6. The Supplier shall have no liability for any losses or damages that may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories: a) special damage even though the Supplier was aware of the circumstances in which such special damage could arise; b) loss of profits; c) loss of business opportunity; d) loss of goodwill; e) loss of data.
- 3.7. The Customer understands and agrees that, in entering into this Agreement, either (i) they did not rely on any representations (written or oral) other than those explicitly stated in this Agreement, or (ii) if they did rely on any representations not explicitly stated in this Agreement, they shall have no remedy for such representations, and the Supplier shall have no liability except as expressly outlined in this Agreement.
- 3.8. Notwithstanding anything else in the Agreement to the contrary, the maximum aggregate liability of the Supplier and any of its employees, agents or affiliates, under any theory of law (including breach of contract, tort, strict liability and infringement) shall be a monetary payment not to exceed the amount payable by the Customer for 3 months of Service.
- 3.9. No Party shall be liable to the other for any delay or non-performance of its obligations under this Agreement arising from any cause beyond its control (force majeure) including, without limitation, any of the following: act of god, governmental act, significant failure of a portion of the power grid, significant failure of the Internet, natural disaster, war, flood, explosion, riot, insurrection, epidemic, strikes or other organized labor action, terrorist activity, or other events of a magnitude or type for which precautions are not generally taken in the industry. For the avoidance of doubt, nothing in clause 3.7 shall excuse the Customer from any payment obligations under this Agreement.
- 3.10. All other conditions, warranties or other terms which might have effect between the Parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

4. Termination

- 4.1. Either Party may terminate this Agreement at any time by written notice to the other if the other Party: (i) is in material or persistent breach of any of the terms of this Agreement and either that breach is incapable of

remedy, or the other Party fails to remedy that breach within 30 days after receiving written notice requiring it to remedy that breach; (ii) is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986); (iii) becomes insolvent, (iv) is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction); (v) has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets; (vi) enters into or proposes any composition or arrangement with its creditors generally; or (vii) is subject to any analogous event or proceeding in any applicable jurisdiction.

- 4.2. Notwithstanding clause 4.1, the Supplier may at any time terminate this Agreement for any reason by written notice to the Customer.
- 4.3. The Customer agrees that the Supplier may suspend services to the Customer without notice and without liability if: (i) the Supplier reasonably believes that Services are being used in violation of this Agreement; (ii) the Supplier reasonably believes that the suspension of service is necessary to protect its network or its other customers; (iii) as requested by a law enforcement or regulatory agency; or (iv) the Customer fails to pay fees due. The Customer shall pay the Supplier's reasonable reinstatement fee if service is reinstated following a suspension of service under this subsection.
- 4.4. On termination: (i) all rights granted to the Customer under this Agreement shall cease; (ii) the Customer shall cease all activities authorized by this Agreement; and (iii) all sums owed by the Customer under this Agreement become immediately due and payable in full.

5. Data Protection

- 5.1. The Customer acknowledges that the Supplier processes Customer's and other Service users' personal data, as defined under the relevant data protection laws including the General Data Protection Regulation (GDPR), for the purpose of complying with their obligations under this Agreement.
- 5.2. The Customer may conclude the [Contract on commissioned processing of personal data: Data Processing Agreement](#) and warrants that it has the consent of the users to disclose their personal data and connection data to the Supplier for the purpose of using Services and that for the same purpose the users have agreed that their personal data may be transferred to territories outside the EEA.
- 5.3. The Supplier will take all steps reasonably necessary to ensure that personal data is treated securely.
- 5.4. The Customer agrees that the Supplier may, without notice, (i) report to the appropriate authorities any conduct by the Customer or any of the Customer Users that the Supplier believes violates applicable law, and (ii) provide any information that it has about the Customer Users in response to a formal or informal request from a law enforcement or regulatory agency, or in response to a formal request in a civil action that meets the requirements for such a request.
- 5.5. The Supplier shall not disclose any data to third parties, but may process such data in duly anonymized and aggregated form for purposes such as internal statistics, commercial sale and promotion.

6. Confidentiality

- 6.1. Each Party shall, during the term of this Agreement and thereafter, keep all information confidential, and shall not use it for its own purposes (unless in accordance with clause 5.5) nor without the prior written consent of the other disclose to any third party, any information of a confidential nature (including, without limitation, trade secrets and information of commercial value) that may become known to such Party from the other Party and which relates to the other Party, unless such information is public knowledge or already known to such Party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such Party from a third party. The provisions of this clause shall remain in full force and effect for five years after the termination of this Agreement for any reason.

6.2. Neither Party may use the other Party's name, logo, marks or other branding without obtaining prior written consent from the other Party.

7. Indemnification

7.1. The Customer agrees to indemnify, hold harmless and defend the Supplier from and against any and all claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative), and expenses (including, but not limited to, reasonable attorney's fees) threatened, asserted, or filed by a third party against any of the indemnified Parties arising out of or relating to the Customer's breach of any term or condition of this Agreement, the Customer's use of Services, any violation by the Customer of any of the Supplier's policies, and/or any acts or omissions by the Customer. In such a case, the Supplier will provide the Customer with written notice of such claim, suit or action. The Customer shall cooperate as fully as reasonably required in the defense of any claim. The Supplier reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by the Customer.

8. Compliance

8.1. The Customer will not use Services in any way or for any purpose that would violate, or would have the effect of violating, any applicable laws, rules or regulations or any rights of any third parties, including without limitation, any law or right regarding any copyright, patent, trademark, trade secret, music, image, or other proprietary or property right, false advertising, unfair competition, defamation, invasion of privacy or rights of celebrity.

8.2. The Customer acknowledges and agrees that multiple alleged violations of clause 8.1 may lead to suspension of Service and a permanent ban from accessing Services, as required by applicable regulations.

9. Waiver

9.1. No forbearance or delay by either Party in enforcing its rights shall prejudice or restrict the rights of that Party, and no waiver of any such rights nor of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.

10. Severability

10.1. In the event that any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. Notwithstanding the foregoing, if this paragraph becomes applicable and, as a result, the value of this Agreement is materially impaired for either Party, as determined by such Party in its sole discretion, then the affected Party may terminate this Agreement by written notice to the other.

11. No Agency

11.1. This Agreement does not create any agency, partnership, joint venture, or franchise relationship. Neither Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Party or bind the other Party in any respect whatsoever.

12. Third party rights

12.1. No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a Party to this Agreement.

13. No Assignment

13.1. The customer may not transfer or assign this Agreement, including by operation of law, without obtaining prior written consent from the Supplier, which shall not be unreasonably withheld, delayed, or conditioned.

14. Notices

14.1. Any notice required to be given pursuant to this Agreement shall be in writing and in English, and shall be sent to the other Party by first-class mail or email.

14.2. The Customer agrees that they shall inform the Supplier of any change in Customer's contact details. Any notices not delivered due to a failure to inform of such change shall be deemed delivered 7 days after the reasonably attempted notice delivery.

15. Entire Agreement

15.1. This Agreement constitutes the entire agreement between the Parties concerning the subject matter herein. This Agreement supersedes all prior agreements, arrangements, and understandings related to that subject matter.

16. Survival

16.1. Clauses 2.5, 2.7, 2.10, 2.17, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 4.4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 17 of this Agreement shall survive the termination or expiration of this Agreement.

17. Governing law and jurisdiction

17.1. This Agreement, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and submitted to the non-exclusive jurisdiction of the English courts.