

# Fatbeam's Acceptable Use Policy

Last Modified: June 2019

## Acceptance of the Terms of Use

This AUP are entered into by and between You (defined herein) and Fatbeam, LLC ("**Company**," "**Fatbeam**," "**we**," or "**us**"). The following terms and conditions, together with any documents they expressly incorporate by reference (collectively, Acceptable Use Policy "**AUP**"), govern Your access to and use of www.fatbeam.com (the "**Website**"), including any content, functionality, and Fatbeam's services offered to You through an executed contract ("**Services**"), whether as a customer of the Company, a visitor of the Website, end-user of the Services, or a guest of Fatbeam's customer ("**You**" or "**Your**"). Terms used but not defined herein shall have the terms assigned to it in the Terms & Conditions document also found on this Website.

Please read this AUP carefully before You start to use the Website or Services. **By using the Website or Services, You accept and agree to be bound and abide by this AUP.** If You do not want to agree to this AUP, You must not access or use the Website or Services.

Any prohibited or illegal activity that affects Company's equipment or customers is punishable to the full extent of the law, and a violation of this AUP. Such violation could result in Fatbeam terminating or suspending Your Services. Furthermore, Fatbeam will hold you responsible for any damage caused by such actions, regardless of Your intent. Fatbeam standard policy and practice is not to monitor or interrupt Your use, nor to exert editorial control over Your content. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications, or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this AUP.

**Changes to the Terms of Use.** We may revise and update this AUP from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the Website or Services thereafter. However, any changes to the dispute resolution provisions set out in **Governing Law and Jurisdiction** will not apply to any disputes for which the parties have actual notice on or before the date the change is posted on the Website.

Your continued use of the Website or Services following the posting of a revised AUP means that You accept and agree to the changes. You are expected to check this page each time You access this Website or engage in the use of Fatbeam's Services, so You are aware of any changes, as they are binding on You. If you have questions about the AUP, or about your rights and responsibilities, please contact your Account Manager.

You are responsible for both:

- Making all arrangements necessary for You to have access to the Website or Services.
- Ensuring that all persons who access the Website or Services through Your Internet connection are aware of this AUP and comply with them.

**Excessive Use.** Any Customer who shows a sustained pattern of excessive or abusive use, in the sole discretion of Fatbeam, may have its Service(s) modified. Examples of excessive or abusive use include but

are not limited to, torrent/file-sharing services, commercial web or mail hosting, distributing or storing excessive amounts of multimedia files. Multimedia files are defined as graphics, audio, and video files.

**Illegal Activities.** Using Fatbeam's Service(s) and equipment for illegal purposes or in support of illegal activities is strictly prohibited. Fatbeam reserves the right to cooperate with legal authorities and/or injured third parties in the investigation of any suspected crime or civil wrong. Activities, which are in violation of any local, state or federal laws, statutes, regulations, treaties and/or tariffs, would constitute a flagrant violation of this AUP. Should any activity threaten the integrity of or threaten to adversely affect Fatbeam's network, Fatbeam shall be allowed to take steps to reduce or contain the damage, including termination or suspension of the Service(s).

**SPAM.** Fatbeam prohibits the transmission, distribution or storage of unwanted or offensive content. Prohibited transmissions include, without limitation, viruses, Trojan horse programs, messages which include character sequences intended to control the recipient's computer or display screen, make money fast schemes, pyramid or chain letters, fraudulent offers, threats, harassment, defamation, postings to a news group in violation of its rules, unsolicited advertising (whether commercial or informational) and unsolicited e-mail ("SPAM"). Fatbeam strongly opposes SPAM, which floods the Internet with unwanted and unsolicited e-mail and deteriorates the performance and availability of Fatbeam's network. All forms of SPAM and all activities that have the effect of facilitating SPAM are strictly prohibited. Violation of this provision will result in termination of any applicable Service Order(s) and/or Customer's entire Agreement. Fatbeam shall be allowed to take any action it deems necessary to prevent the transmission, distribution or storage of SPAM.

**Traffic Limitation.** Fatbeam's Internet may only be used in conjunction with Service(s) purchased from Fatbeam. Notwithstanding anything in this AUP to the contrary, no data traffic shall traverse Fatbeam's network unless such traffic originates from or is destined for Customer. Any commercial use or sale/resale of this service is strictly prohibited. Use by multiple customers, without prior written consent and agreement, is strictly prohibited.

**Account.** If You choose, or are provided with, a user name, password, or any other piece of information as part of our security procedures or part of Your Services, You must treat such information as confidential, and You must not disclose it to any other person or entity. You also acknowledge that Your account is personal to You and agree not to provide any other person with access to such account or portions of it using Your user name, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of Your user name or password or any other breach of security. You also agree to ensure that You exit from Your account at the end of each session. You should use particular caution when accessing Your account from a public or shared computer so that others are not able to view or record Your password or other personal information.

We have the right to disable any user name, password, or other identifier, whether chosen by You or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, You have violated any provision of this AUP.

**Intellectual Property Rights.** The Website or Services and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by the Company, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

This AUP permit You to use the Website or Services for Your use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on our Website.

**Trademarks.** The Company's name and logo are trademarks of the Company and You must not use such marks without the prior written permission of the Company. All other names, logos, product and service names, designs, and slogans on this Website are the trademarks of their respective owners.

**Prohibited Uses.** You may use the Website or Services only for lawful purposes and in accordance with this AUP. You agree not to use the Website or Services:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material, without our prior written consent, including any "junk mail," "chain letter," SPAM, or any other similar solicitation.
- To impersonate or attempt to impersonate the Company, a Company employee, another user, or any other person or entity (including, without limitation, by using e-mail addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website or Services, or which, as determined by us, may harm the Company or users of the Website or Services, or expose them to liability.

Additionally, You agree not to:

- Use the Website or Services in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Website or Services, including their ability to engage in real time activities through the Website or Services.
- Use any robot, spider, or other automatic device, process, or means to access the Website or Services for any purpose, including monitoring or copying any of the material on the Website or Services.
- Use any manual process to monitor or copy any of the material on the Website or Services, or for any other purpose not expressly authorized in this AUP, without our prior written consent.

- Use any device, software, or routine that interferes with the proper working of the Website or Services.
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Website or Services, the server on which the Website or Services is stored, or any server, computer, or database connected to the Website or Services.
- Attack the Website or Services via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Website or Services.

### **Monitoring and Enforcement; Termination**

We have the right to take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of this Website or Services. We also reserve the right to terminate or suspend Your access to all or part of the Website or Services for any or no reason, including without limitation, any violation of this AUP.

Without limiting the foregoing, we have the right to cooperate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Website or Services. YOU WAIVE AND HOLD HARMLESS THE COMPANY FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY THE COMPANY DURING, OR TAKEN AS A CONSEQUENCE OF, INVESTIGATIONS BY EITHER THE COMPANY OR LAW ENFORCEMENT AUTHORITIES.

**Changes to the Website or Services.** We may update the content on this Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and we are under no obligation to update such material.

**Information About You and Your Visits to the Website or Services.** All information we collect on this Website is subject to our Transparency Notice also available on this Website. By using the Website or Services, You consent to all actions taken by us with respect to Your information in compliance with this AUP and where applicable, the Transparency Notice.

**Links from the Website or Services.** If the Website or Services contains links to other sites and resources provided by third parties, these links are provided for Your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from Your use of them. If You decide to access any of the third-party websites linked to this Website, You do so entirely at Your own risk and subject to the terms and conditions of use for such websites.

**Disclaimer of Warranties.** You understand that we cannot and do not guarantee or warrant that files available for downloading from the Internet or the Website or Services will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy Your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE WEBSITE OR SERVICES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

YOUR USE OF THE WEBSITE OR SERVICES, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES IS AT YOUR OWN RISK. THE WEBSITE OR SERVICES, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ANY PERSON ASSOCIATED WITH THE COMPANY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE WEBSITE OR SERVICES. WITHOUT LIMITING THE FOREGOING, NEITHER THE COMPANY NOR ANYONE ASSOCIATED WITH THE COMPANY REPRESENTS OR WARRANTS THAT THE WEBSITE OR SERVICES, ITS CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE WEBSITE OR SERVICES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**Limitation on Liability.** TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL THE COMPANY, ITS EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE WEBSITE OR SERVICES, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SERVICES OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING

BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

**Waiver and Severability.** No waiver by the Company of any term or condition set out in these AUP shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of the Company to assert a right or provision under these AUP shall not constitute a waiver of such right or provision.

If any provision of these AUP is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of this AUP will continue in full force and effect.

**Your Comments and Concerns**

All feedback, comments, requests for technical support, and other communications relating to the Website or Services should be directed to: [info@fatbeam.com](mailto:info@fatbeam.com).