

TERMS AND CONDITIONS

This Subscriber Agreement ("Agreement") is made by and between Subscriber and DigitalForge. ("DIGITALFORGE"), for the provision and use of DSL Internet access (the "Service"). Now therefore, in consideration of the mutual promises and covenants herein contained, the adequacy of which is hereby acknowledged, and intending to be legally bound, Subscriber and DIGITALFORGE hereby agree as follows:

1. AGREEMENT. Subscriber agrees to be bound by this Agreement and to use the Service in compliance with the terms of this Agreement and with DIGITALFORGE's Acceptable Usage Policy which can be found at www.DigitalForge.ie/fup.html and which may be modified from time to time.

2. THE SUBSCRIBER. Subscriber is at least 18 years of age, is legally able to enter into contracts and is responsible for this Subscriber account. Subscriber shall pay all fees, taxes, charges and other expenses incurred in connection with the account.

3. SUBSCRIBER ACKNOWLEDGEMENTS REGARDING THE SERVICE.

(a) The Service consists of an internet connection over a Wireless Link. While DIGITALFORGE will undertake all reasonable commercial efforts to deliver the stated service the Subscriber acknowledges that service speed can vary depending on Internet traffic and other factors beyond the control of DIGITALFORGE. The Service may contain material that is unsuitable for minors and Subscriber acknowledges that DIGITALFORGE does not and can not filter the content.

(b) Subscriber acknowledges that in order to provide the Service, DIGITALFORGE has contracted with communications and network operators for internet access. Subscriber further acknowledges that DIGITALFORGE will only provide uninterrupted continuous Service to Subscriber pursuant to this Agreement to the extent which DIGITALFORGE receives such service from linked communications and network operators.

(c) Subscriber acknowledges and agrees that from time to time DIGITALFORGE may be required to temporarily suspend the Service to subscriber to verify compliance with applicable licenses, authorizations, and compliance with the technical and operating parameters of the network. Under such circumstances DIGITALFORGE will use all reasonable efforts to minimize disruption to the Service including making reasonable efforts that any such suspension take place out of normal business hours.

(d) Subscriber accepts that DIGITALFORGE may change or withdraw any element of the Service from time to time and will use all reasonable efforts to notify Subscriber of any necessary change in the Services.

(e) Subscriber acknowledges that the Service is an "always open" connection to the internet while the equipment is powered on and that it is Subscriber's SOLE RESPONSIBILITY to install, configure and maintain suitable security measures to protect Subscriber's computer and equipment from unauthorised or malicious access from the internet. Any advice or equipment provided by DIGITALFORGE is provided 'as is' and DIGITALFORGE accepts no responsibility or liability for the security of Subscriber's systems.

(f) Subscriber acknowledges that as the DIGITALFORGE wireless network operates under the 2.4 & 5.8Ghz bands which are unlicensed spectrums, it cannot be held responsible for interference from other equipment operating in the same spectrum.

4. TERM.

This Agreement is for an initial term of 18 months, and shall automatically renew after 18 months until terminated in accordance with this Agreement. After the Initial Term, Subscriber may terminate this Agreement upon thirty (30) days written notice to DIGITALFORGE.

Should Subscriber terminate this agreement for any reason during the term, a cancellation fee equal to EURO 150 will become immediately due, and Subscriber acknowledges and agrees to pay such fee. DIGITALFORGE may in its sole discretion terminate this Agreement at any time. In the event that DIGITALFORGE terminates this Agreement for reasons other than breach of this Agreement by Subscriber, then DIGITALFORGE shall endeavour to the extent reasonably possible to provide 30 days notice to Subscriber. Subscriber is liable under this Agreement for all fees and charges until such time as the Agreement has been terminated. SUBSCRIBER UNDERSTANDS THAT UNLESS WRITTEN NOTIFICATION IS RECEIVED BY DIGITALFORGE AFTER THE INITIAL TERM, THE SERVICE SHALL CONTINUE AND SUBSCRIBER WILL CONTINUE TO BE RESPONSIBLE FOR PAYMENT OF APPLICABLE SERVICE FEES.

A package change to a higher package or addition of services such as phone, static IP, CPE upgrade or replacement etc. may take place at any time, and this extends the contract by a further 18 months. Downgrades or moving to packages of a lesser value may only take place after 12 months from initial installation or a change to a higher package and this extends the contract by a further 18 months

5. TERMINATION.

(a) If Subscriber is dissatisfied with the Service or any related terms, conditions, rules, policies, guidelines, or practices, and if these issues cannot be resolved through DIGITALFORGE's Customer Complaints procedure Subscriber's sole remedy is to discontinue using the Service, cancel the account, and pay any cancellation fees that apply. To cancel the Service Subscriber must send a written request for termination by mail or fax to DIGITALFORGE and same must be signed by an authorised representative of Subscriber to arrive not less than 5 working days before the end of the current billing term.

(b) Upon cancellation or otherwise upon termination of this Agreement, related email and hosting services will be terminated and all Subscriber files stored on DIGITALFORGE servers may be deleted. DIGITALFORGE may terminate this Agreement, your password, your account, or your use of the Services for any reason, including, without limitation, if DIGITALFORGE, in its sole discretion, believes you have violated the Agreements or if Subscriber fails to pay any charges when due.

(c) Sections 11, 20, 21, and 22 of this Agreement shall survive termination of this Agreement.

(d) DIGITALFORGE may terminate this agreement immediately if Subscriber is subject to bankruptcy, insolvency examinership, receivership, liquidation or any similar proceedings, or in DIGITALFORGE's exclusive opinion is unable to pay fees due to DIGITALFORGE.

6. FEES AND PAYMENT.

(a) Subscriber shall pay a monthly service fee and all other applicable fees, charges, taxes, and other amounts for the Service at the rates in effect for the current billing period. DIGITALFORGE may increase or decrease the monthly service fee. DIGITALFORGE will use all reasonable efforts to provide Subscriber thirty (30) days or more notice of same. If such changes to the monthly service fee are to Subscribers detriment (e.g. a price increase), Subscriber may terminate this agreement by giving thirty (30) days written notice, and Subscriber will remain liable only for any balance on the account.

(b) Payment is due in full by Direct Debit at the start of each billing month, except where annual prepayment has been selected. All charges are considered valid unless disputed in writing within thirty (30) days of the billing date. Adjustments will not be made for charges that are more than 30 days old. If any payment is more than 7 days overdue or is returned by the bank unpaid, the Service may be suspended with immediate effect and remain suspended until the due amounts are paid in full. The Subscriber is not relieved of the obligation to pay the monthly service fee while an account is suspended. DIGITALFORGE may at its sole discretion terminate the Service and this Agreement for any accounts which are 14 days or more overdue. A reactivation fee or deposit may be required before Service is reactivated after suspension or termination. Credit account balances shall not accrue interest. Subscriber agrees to pay the reasonable costs of any collection agency, solicitor or court used by DIGITALFORGE to collect past due amounts or to enforce this Agreement. Returned cheques or Direct Debits will incur a 20 administration fee.

(c) Monthly charges commence on the day following the Broadband activation date.

7. SUBSCRIBER ACCOUNT.

(a) Subscriber will receive an account reference, and various other account details. Subscriber is solely responsible for use of the Service and for ensuring their information is kept confidential. Subscriber must notify DIGITALFORGE immediately upon discovering any unauthorized use of their account.

(b) Subscriber acknowledges that usernames, passwords and IP addresses may change or be changed from time to time, and specifically that fixed IP addresses are not guaranteed except in the case of custom services where this specifically comprises part of the service contract.

8. FAIR USAGE POLICY.

To ensure equal Internet access for all subscribers, DIGITALFORGE operates a fair usage policy. Fair usage establishes an equitable balance in Internet access across high speed Internet services for all subscribers. To ensure this equity, certain types of traffic such as VOIP and browsing may be prioritized over other traffic. DIGITALFORGE provides the Service on a "best effort" basis and does not guarantee upload or download speeds. The number of Peer to Peer connections any one subscriber may open may be restricted or blocked. See www.digitalforge.ie/wpwww/acceptable-usage-policy/ for details.

9. CUSTOMER COMPLAINT POLICY.

Should you be dissatisfied for any reason with the service provided by DIGITALFORGE a formal complaint process is provided to ensure that your issue is addressed as quickly as possible and at the highest level necessary, as follows:

(a) GENERAL: If you have a general complaint regarding DIGITALFORGE, [email](mailto:complaints@DigitalForge.ie) us at complaints@DigitalForge.ie. Alternatively you should phone the Customer Service desk. Complaints lodged in this way will receive same day attention (working hours) by a supervisor or manager.

(b) BILLING: If you have a billing enquiry or complaint, please contact the Accounts Department via the number shown on your invoice or statement.

(c) WRITTEN: If you prefer to put your complaint in writing, we will respond to your letter by telephone and will confirm any details in writing if you wish. Your letter should be addressed to: Customer Service Dept., DIGITALFORGE, Colla Road, Schull, County Cork.

(d) IDENTITY: If telephoning DIGITALFORGE, each staff contact receiving your call will provide his or her name on request. Record same for future reference or to revert later to the same person working on your query or complaint.

(e) RESOLUTION: The staff member receiving your call will either resolve your complaint or transfer your complaint to a more appropriate person to endeavour to resolve your complaint to your satisfaction. Where possible, our staff will resolve your concern at the first point of contact.

(f) ESCALATION: If you are not satisfied with the resolution, or if you feel that you have not received a fair hearing, your complaint can be escalated to a supervisor or manager on your request. He or she will review your complaint and resolutions offered and discuss the complaint with you. If your complaint remains unresolved it can be escalated to the Managing Director of the company.

10. SOFTWARE LICENSE.

DIGITALFORGE grants to Subscriber a non-exclusive, non-assignable and non-transferable license to use and display the software provided by or on behalf of DIGITALFORGE only for purposes of accessing the Service. Unauthorized copying of the Software is expressly forbidden. Subscriber may not sublicense, assign or transfer the license or the Software.

11. INSTALLATION/PERFORMANCE

(a) The installation, use, inspection, maintenance, repair, and removal of the equipment may result in service outage or potential damage to your computer or building. Subscriber is solely responsible for backing up all existing computer files and data. DIGITALFORGE and its employees, agents, contractors, and representatives shall have no liability whatsoever for any damage to or loss or destruction of any of your hardware, software, files, data, peripherals or building.

(b) DIGITALFORGE will endeavour to provide the Service to all eligible applicants, subject to technical and commercial feasibility. DIGITALFORGE may require the customer to upgrade the CPE in some cases where the equipment predates the ability to run at very high speeds or capacity. The customer will be responsible for the cost of the upgrade. New equipment will be subject to the warranties as described in section 17 below.

12. COPYRIGHTS AND LICENSES.

The content on the Service is protected under applicable copyright law. Any copying, modification, distribution, publication or other use by Subscriber, or by any user of Subscriber's account, of any such content is prohibited, except as expressly permitted by the holder of the applicable copyrights.

13. NO ENDORSEMENT.

DIGITALFORGE does not endorse or in any way vouch for the accuracy or completeness of any content made available through the Service. DIGITALFORGE does not recommend that such content be relied on by Subscriber without appropriate verification.

14. SUBSCRIBER CONDUCT.

Subscriber shall comply with all laws, rules, regulations and legal obligations related to the Service and with all acceptable use policies and procedures established from time to time by DIGITALFORGE. Subscriber shall not use the Service to conduct any business or activity or to solicit the performance of any activity which is prohibited by any law, rule, regulation or legal obligation. Subscriber shall not intercept e-mail in an unauthorized manner or engage in "spamming" or any similar conduct.

15. THIRD PARTY ACCESS.

(a) Subscriber shall not resell, share, lease, hire or otherwise permit access to the Service to any third party, including but not limited to the connection of any third party to the Service through use of direct cable connection, network connection, wireless networking, or any other means. (b) DIGITALFORGE reserve the right to suspend the Service pending investigation where it reasonably suspects the above clause is breached by Subscriber and reserves the right to terminate with immediate effect the Service and this Agreement where such breach has taken place.

16. SERVICE MONITORING.

DIGITALFORGE has no obligation to monitor the Service, but may do so and disclose information regarding use of the Services for any reason if DIGITALFORGE, in its sole discretion, believes that it is reasonable to do so, including to: satisfy laws, regulations, or governmental or legal requests; operate the Service properly; or protect itself and its subscribers. DIGITALFORGE may immediately remove your material or information from DIGITALFORGE servers, in whole or in part, which DIGITALFORGE, in its sole and absolute discretion, determines to infringe another's property rights or to violate DIGITALFORGE's Acceptable Use Policy.

17. SUBSCRIBER EQUIPMENT.

Subscriber shall maintain and operate suitable and fully compatible terminal equipment and communication devices required to access the service. DIGITALFORGE makes no representation or warranties, either express or implied, regarding such Subscriber equipment. Subscriber equipment remains the property and responsibility of the subscriber unless subscriber terminated contract before the initial 18 month period, in which case the equipment must be returned to Digitalforge (see item 4 above). All subscriber equipment (including but not limited to POE, Antennae, Routers, USB Devices) come with a twelve month warranty.

18. DISCLAIMER OF WARRANTIES.

Access to the service is not guaranteed. The Service is distributed on an "as is" and "as available" basis without warranties of any kind, either express or implied, including but not limited to warranties of title or implied warranties of merchantability or fitness for a particular purpose or otherwise.

19. LIMITATION OF LIABILITY.

Neither DIGITALFORGE nor any of its information or content providers, service providers, licensors, employees or agents shall be liable for any direct, indirect, incidental, special, punitive or consequential damages arising out of Subscriber's use of the service or inability to use the service or any breach of any representation or warranty. In any event, no such liability shall exceed the total amount actually paid by Subscriber for services provided under this agreement for the prior three month period.

20. INDEMNITY.

Subscriber assumes all risk and liability for any use of the Service. Subscriber agrees to indemnify DIGITALFORGE against all claims, liability, damages, costs and expenses, including but not limited to reasonable legal fees, arising out of or related to Subscriber's use of the Service.

21. THIRD PARTY BENEFICIARIES.

The provisions of Sections 19, 20 and 21 are for the benefit of DIGITALFORGE and its respective contractors, information or content providers, service providers, licensors, employees and agents; and each shall have the right to assert and enforce such provisions directly on its own behalf.

22. SUPPORT SERVICES.

Subscriber shall direct all enquiries and service related issues to DIGITALFORGE's Customer Sales and Support contact points, as defined on its website from time to time or directly by email to support@DigitalForge.ie

23. APPLICABLE LAWS.

This Agreement shall be governed by the laws of the Republic of Ireland. Any cause of action of Subscriber, or by users of Subscriber's account, with respect to the Service or this Agreement must be instituted within six (6) months after the claim or cause of action has arisen or be barred. It is acknowledged that this is a services contract and not a contract for the sale of goods.

24. GENERAL

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereunder, and supersedes any and all oral and/or written statements, discussions; representations and agreements made by either party to the other, and may not be assigned without the express written consent of DIGITALFORGE. No modification of this Agreement shall be binding on either party unless it is in writing and signed by both parties. Failure on the part of DIGITALFORGE to enforce any provision of this Agreement shall not be construed as a general waiver or relinquishment of the right to enforce such provision. If any provision shall be held unenforceable, the validity legality and enforceability of the remaining provisions shall in no way be affected thereby, and the intent of the unenforceable provision enacted to the maximum enforceable extent.

(b) Notices. All notices, requests, consents and other communications hereunder, shall be in writing and shall be forwarded by either Registered Mail, fully prepaid, sent via facsimile or delivered in person to the address of each party as set forth at the beginning of this Agreement, or at such other address as may have been furnished in writing; provided that any notice of termination shall be sent via registered mail in addition to any other means of communication used. Notices, if mailed, shall be deemed effective 5 working days following deposition with the mail service.

(c) Non-Assignment. This Agreement is personal to the parties hereto and the rights and obligations of Subscriber hereunder cannot be assigned, delegated, or in any manner transferred, except as approved by DIGITALFORGE, and, provided that DIGITALFORGE may assign this Agreement to a subsidiary, affiliate, or other entity.

(d) Publicity. DIGITALFORGE may identify Subscriber as user of DIGITALFORGE's services in reports, advertisements and other promotional literature or forms of publication. Subscriber should advise DIGITALFORGE in writing if it does not wish to be identified.

(e) Remedies. Any of the remedies set forth herein, are not exclusive of remedies that DIGITALFORGE or Subscriber may obtain in a Court of Law, on Legal or Equitable grounds.

(f) Headings for Convenience. All headings preceding paragraphs and subparagraphs have been inserted for convenience of reference only, and shall not be relied upon in determining the meaning of the rights and obligations of DIGITALFORGE or Subscriber.

25. Extended Warranty

For an additional fee of two euro per month you may purchase an extended warranty to cover any and all replacement costs of CPE and associated cables, power supplies and POE. Warranty will cover full replacement costs of CPE, cables and accessories due to lightening or power damage, wind, water or other accidental damage to CPE or associated cables and accessories. Callout charges to replace these items will also be free of charge. Routers, switches, phones and customers own equipment are not covered. Warranty period is up to one calendar month after each payment of warranty fee. Warranty fee to be paid monthly with existing direct debit for broadband services. You may cancel extended warranty at any time by calling or emailing our office.

Check box to avail of €2.00 monthly extended warranty. No thanks, I don't want extended warranty.

Signature of Subscriber :

[Signature box]

Name in Capitals:

[Name in Capitals box]

Date:

[Date box]

Phone:

[Phone box]

Address:

[Address box]

Address:

[Address box]

Mobile No:

[Mobile No box]

E-mail:

[E-mail box]

