FastNetMon Community Edition

Terms and Conditions

PLEASE READ CAREFULLY BEFORE ACCESSING OR DOWNLOADING THIS SOFTWARE:

These terms and conditions agreement (**T&Cs**) are a legal agreement between you (**you**) and FastNetMon Ltd of 20-22 Wenlock Road, London, England, N1 7GU (**us or we**) for FastNetMon Community Edition and any associated documentation (**Software**).

These T&Cs operate alongside the GNU General Public Licence version 2 (GPLv2), which applies to the Software as well. If there is any conflict between these T&Cs and GPLv2, these T&Cs will take precedence. For the purposes of GPLv2, the "Program" will be the Software as defined in these T&Cs.

We license use of the Software to you on the basis of these T&Cs and GPLv2. We do not sell the Software to you. We remain the owners of the Software at all times.

The Software is only available for corporate users. Accepting these T&Cs confirms that you are (or are acting on behalf of) a corporate entity, and have the necessary authority to agree to these T&Cs on behalf of that entity.

Our other software will be subject to separate terms which you will be made aware of as part of any purchase or installation process. These T&Cs apply only to the FastNetMon Community Edition.

IMPORTANT NOTICE TO ALL USERS:

- BY DOWNLOADING, INSTALLING OR USING FASTNETMON COMMUNITY EDITION OR OTHERWISE INDICATING YOUR ACCEPTANCE OF THESE T&CS YOU AGREE TO THESE T&CS WHICH WILL BIND YOU AND YOUR EMPLOYEES. THESE T&CS INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CONDITION 5 AND REQUIREMENTS CONCERNING DATA PROVISION AT CONDITION 3.

- IF YOU DO NOT AGREE TO THESE T&CS YOU MUST NOT USE OR ACCESS THIS SOFTWARE.

You should save a digital copy of these T&Cs for future reference.

1   **Grant and scope of licence**

1.1   In consideration for you complying with these T&Cs, we grant to you a non-exclusive, non-transferable licence to use the Software on the terms of these T&Cs and GPLv2.

1.2   You may, subject to your compliance with these T&Cs:

1.2.1   download, install and use the Software (excluding associated documentation) as permitted by GPLv2;

1.2.2   download and use any associated documentation in support of your internal business use of the Software. You may not otherwise copy, amend, use or commercially exploit any associated documentation we make available.

2   **Restrictions**

2.1   Except as expressly set out in these T&Cs or as permitted by any local law, you undertake:

2.1.1   to supervise and control use of the Software and ensure that the Software is used by your employees and representatives in accordance with these T&Cs; and

2.1.2   to comply with all applicable technology control or export laws and regulations.

3   Data Reporting

3.1   The Software allows for the automatic sending to us of installation data, error tracking data, usage data and attack reports which we will use to improve our software and services. Options for collection of error tracking data, usage data and attack reports can be disabled through tool settings. By keeping these options enabled, you confirm that you will comply with the requirements of this Condition 3.

3.2   Further information about what types of data we collect is set out in our privacy notice, https://fastnetmon.com/fastnetmon-community-edition-privacy-notice/ but that information is not exhaustive and we may collect additional data in relation to installation, error tracking, usage and attack reports at our discretion. You must not send us any data in relation to usage or attack reports which is not set out there.

3.3   Without prejudice to the generality of Condition 3.2, you must not send us any special category or sensitive personal data, or any credit card or payment information.

3.4   If you are sending us personal data (either directly to us or to our software installed on your network), you must also ensure that you do so in compliance with all applicable data protection law, including by having and recording a lawful basis for sharing the data, and ensuring that you provide all required information to any users whose personal data may be shared with us about the sharing of the data and our onward usage of it (including through linking to our privacy notice, https://fastnetmon.com/fastnetmon-community-edition-privacy-notice/ within your own privacy notice or wherever else is relevant).

3.5   You are solely responsible for the content of any data which you send to us (either directly to us or to our software installed on your network), and you must ensure that you have any necessary consents or authorities in place to send us that data, and that our receipt and usage of it (as anticipated by these T&Cs or our privacy notice) will not cause us to be in breach of any applicable laws.

3.6   We may use the data you provide to us to help improve, administer, target and market our products and services and may otherwise commercially exploit and make available that data. We also provide limited information about IP addresses which have installed the Software to Google Analytics. Options for supplying information about IP addresses to Google Analytics can be disabled through tool settings. By providing us with that data, you grant us all necessary rights and licences on a perpetual, irrevocable, non-exclusive, sub-licensable, transferrable, worldwide basis for us to use, copy, alter, and commercially exploit that data for whatever purposes and in whatever ways we see fit.

3.7   You will indemnify us and hold us harmless against any claims, liabilities, costs, expenses, damages and losses we suffer or incur in relation to your breach of this Condition 3.

4   Intellectual property rights

4.1   You acknowledge that all intellectual property rights in the Software anywhere in the world belong to us, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software other than the right to use them in accordance with these T&Cs.

4.2   "FastNetMon" is a registered trade mark (including in the UK and EU) owned by us. We do not grant you any rights to use that trade mark.

5   **Limitation of liability**

5.1   You acknowledge that the Software is provided free of charge and has not been developed to meet your individual requirements, including any particular cybersecurity requirements you might be subject to under law or otherwise, and that therefore:

    5.1.1   the Software is provided on an "as is" basis;

    5.1.2   we offer no warranty, representation, undertaking or guarantee in respect of the Software (including but not limited to performance, availability, suitability, non-infringement, or functionality);

    5.1.3   as far as lawfully permitted, any and all warranties, conditions, representations, provisions or terms which may be implied by law, custom, course of dealing or otherwise shall be excluded from these T&Cs and our relationship with you;

    5.1.4   it is your responsibility to ensure that the facilities and functions of the Software meet your requirements and we shall have no liability or responsibility in respect of such;

    5.1.5   we will not be liable to you for any claims brought against you by third parties as a result of your use of the Software.

5.2   We shall (without prejudice to the generality of Condition 5.1) not in any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with these T&Cs for any special, indirect or consequential loss, damage, charges or expenses or for any of the following types of loss (whether direct or otherwise):

    5.2.1   loss of profits, sales, business, or revenue;

    5.2.2   business interruption;

    5.2.3   loss of anticipated savings;

    5.2.4   wasted expenditure;

    5.2.5   loss or corruption of data or information; and

    5.2.6   loss of business opportunity, goodwill or reputation.

5.3   Other than the losses set out in Condition 5.2 (for which we are not liable), our maximum aggregate liability under or in connection with these T&Cs whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to the sums which we recover from our insurers in respect of any claim. This maximum cap does not apply to Condition 5.4.

5.4   Nothing in these T&Cs shall limit or exclude our liability for:

    5.4.1   death or personal injury resulting from our negligence;

    5.4.2   fraud or fraudulent misrepresentation;

5.4.3   any other liability that cannot be excluded or limited by English law.

6   Termination

6.1   We may terminate these T&Cs at any time by giving you notice in writing,

6.2   We may terminate these T&Cs immediately by written notice to you if you commit a breach of these T&Cs .

6.3   On termination of these T&Cs for any reason:

6.3.1   all rights granted to you under these T&Cs shall cease;

6.3.2   you must immediately cease all activities authorised by these T&Cs; and

6.3.3   you must immediately and permanently delete or remove the Software from all computer equipment in your possession, and immediately destroy or return to us (at our option) all copies of the Software then in your possession, custody or control and, in the case of destruction, certify to us that you have done so.

7   Communications between us

7.1   We may update these T&Cs at any time on notice to you (which includes by updating these T&Cs on our website or any website such as GitHub on which the software is available for download, and it is you responsibility to check these websites for any updates). Your continued use of the Software following any update shall constitute your acceptance to these T&Cs, as varied. If you do not wish to accept these T&Cs (as varied) you must immediately stop using and accessing the Software following the update.

8   How we may use personal information

Under data protection legislation, we are required to provide individuals with certain information about who we are, how we process their personal data and for what purposes and those individuals' rights in relation to their personal data and how to exercise them. This information is provided in https://fastnetmon.com/fastnetmon-community-edition-privacy-notice/ and it is important that you read that information and make it available to any relevant individuals.

9   Other important terms

9.1   You may not download, install or use the Software if you are subject to any UK, US or EU sanctions, and by accepting these T&Cs you confirm that you are not subject to any UK, US or EU sanctions. If we discover or reasonably suspect that you are subject to any UK, US or EU sanctions we may terminate these T&Cs immediately without notice.

9.2   We may transfer our rights and obligations under these T&Cs to another organisation, but this will not affect your rights or our obligations under these T&Cs.

9.3   You may only transfer your rights or your obligations under these T&Cs to another corporate entity if we agree in writing (and in any event, not to an individual).

9.4   These T&Cs and any document expressly referred to in them constitute the entire agreement between us and supersede and extinguish all previous and contemporaneous agreements, promises, assurances and understandings between us, whether written or oral, relating to their subject matter.

9.5   You acknowledge that in entering into these T&Cs you do not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these T&Cs or any document expressly referred to in them.

9.6   You agree that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these T&Cs or any document expressly referred to in them.

9.7   A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

9.8   A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

9.9   Each of the conditions of these T&Cs operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.

9.10   These T&Cs, their subject matter and their formation or applicability to you (and any non-contractual disputes or claims) are governed by English law. We both irrevocably agree to the exclusive jurisdiction of the courts of England and Wales.