

FATbit Technologies Terms and Conditions

(Terms 1st to 25th are Standard Terms applicable on all services/projects)

- 1. Contract:** The client's approval for work to commence shall be deemed a contractual agreement between the Client and FATbit Technologies (referred as FATbit). The approval for the work can be through either an email confirming back the quote (with the quote document attached) or the quote document signed by the client.

Whereas, FATbit is in the business of providing Consultancy and allied Services on Computer based Information Technology, to its clientele, including any affiliates, subsidiaries, divisions of FATbit's clients and customers (hereinafter referred to as "Customers") and FATbit is in the business of producing Softwares, Designs, Software Planning Documents/Diagrams and Creative works for its Customers – whether copyrightable/patentable or not (hereinafter referred to as "Product" or "Products")

Now THEREFORE, in consideration of mutual promises, covenants and conditions set forth herein, The parties hereto agree to the terms mentioned in this agreement/proposal.

Important: Payment of the advance fee indicates that the client accepts these terms and conditions, and approves to commence the work.

- 2. Usage of FATbit Services/Products/Solutions:** Client agrees not to use the FATbit services/products delivered for any business which is harmful to the society or children or is illegal. Further the Client is fully responsible for all and any content published/distributed or allowed to be published/distributed through the Client's website whether hosted on servers owned/maintained by FATbit or by the Client himself. Client shall execute best possible precautionary and security measures to restrict any illegitimate use of the services/solutions precured from FATbit.
- 3. 1 Year Free Technical Support:** FATbit provides 1 year free technical support for following kind of issues:
 - a) Server side scripting/programming errors/bugs
 - b) Logical Bugs/Calculation related errors/bugs
 - c) Connection errors/API Integration Errors

Above support is not available if the errors/bugs arise due to any external entity. Examples:

- a) Server or software or application or extension downgrades or upgrades
- b) Edits done in the code/scripts delivered by any external entity/person/professional
- c) Operating System or Browser Version Downgrades/Upgrades
- d) Any other factor which is not directly related to any deficiency at the end of FATbit

Above support is not available for following kind of instances, unless otherwise specifically covered in the scope of project and/or deliverables:

- a) Training for using the software/solutions delivered
- b) General enquiries/questions related to particular features of the software/solution delivered
- c) Cosmetic updates and/or UI/UX updates
- d) Enhancements or modifications in the default features/functional logics of the software/solutions delivered.

Exclusion: Unless otherwise agreed explicitly, this 1 year Free Technical Support is not available for following kinds of engagement/association with FATbit:

- a) Full Time Web Designer or Developer Engagement/Hired
 - b) FATbit Designers and/or Developers are working with Client Team directly where project management is being done by the Client Team.
 - c) FATbit is hired only for Installation and/or Support works and/or Quality only but not for the project development.
- 4. Photography and graphics:** Both the parties agree to abide by the following terms:
 - a) Unless otherwise agreed - Stock Images used for creating any banner or promotion graphic or animation are not part of the project deliverables, Client should purchase the license to use the stock images from respective 3rd parties at his/her own cost.

- b) FATbit Technologies may use stock photographs and images while creating the website. Images and graphics purchased from stock libraries are not generally included in the quote and will be invoiced separately.
 - c) At request of the Client - FATbit will keep the client updated about the stock images being used and the cost involved before raising the invoice.
 - d) Images used by FATbit for product demos shall not be used by the client unless the client has purchased the usage rights for those images. Client shall be fully responsible for violation of any 3rd party copyright.
 - e) Images delivered by FATbit along with a bundled software/solution/script are for Demo Purpose only and shall not be used for commercial purpose. Client should contact FATbit for more information about the price of those images if the Client wishes to use those images for commercial purpose OR Client should replace the default images with the images owned by the Client.
- 5. Browser compatibility:** FATbit Technologies makes every effort to design pages that work flawlessly on most popular current browsers i.e. latest version of IE/FireFox/Chrome released on the date of project agreement. However, FATbit cannot be held responsible for pages that do not display acceptably in newer versions of browsers released after pages have been designed. IE11 and older IE versions are outdated browsers and hence we don't design with them in mind. We recommend using latest version of Chrome or Firefox instead of older versions of Microsoft Internet Explorer. FATbit can work on improving UI/UX for older versions of Internet Explorer for an additional charge.
- 6. Search Engine Submission:** Following services are not part of the project unless agreed otherwise in writing:
- a) Submission of websites on different search engines.
 - b) Securing good ranking of your website on different search engines.
 - c) Search Engine Optimization – On Page/Off Page.
- 7. Site maintenance:** Unless otherwise agreed in writing, following services will be separately billed after the website has been made live:
- a) Content updates
 - b) Refinements and logical tweaks to the website, which were not planned/approved by client earlier.
 - c) Content presentation and design updates that were not planned/approved by client earlier.
- 8. Content:** After FATbit has delivered the website to client, client is solely responsible for the content/information/images posted on his website. If there is any error or omission by FATbit team while uploading/posting the content/information/images on client's website, FATbit will correct it if reported to FATbit representatives.
- 9. Material:** All material supplied by the client shall remain client's property. FATbit rightfully believes that this material belongs to the client and that it does not breach any copyright laws. Under no circumstances shall FATbit be held responsible for any claims, damages, and loss of profit or reputation caused to client due to the use of material provided by the client.
- 10. Domain names booked by FATbit on behalf of client:** FATbit provides domain name consultancy if required. Domain names registered by FATbit on the client's behalf are property of FATbit until client has paid for the domain booked and any fee involved.
- FATbit Technologies agrees to transfer such domains to the client or his/her agent when asked to do so provided that all accounts have been settled.
- Note: Domains booked and owned by client are not subject to this term. This term applies only to those domains that are booked by FATbit upon the request of client.
- 11. Travel Time and Expenses:** Travelling time to and from the client premises is not generally included in our estimate. If a visit/travel is required for meeting, the client will bear all the expenses or as agreed by both the parties.
- 12. 3rd Party Add-ons/services/applications:** All third party costs arising from the registration of a domain name/purchase of third party utilities/services shall be met by the Client and are payable to FATbit Technologies before a formal application for registration is made. Examples of 3rd party fees are as under:

- i. Domain Names
- ii. Server Space Hosting Fees
- iii. SSL Certificates
- iv. Backup Services
- v. 3rd Party APIs, if any, required by 'Client' to be integrated with the work ordered.
- vi. 3rd Party Plugins/Scripts/Applications/Software/Widgets/Services, if any, required by 'Client' to be integrated with the work ordered.
- vii. Payment Gateways Signup and Recurring Fees

13. Examples of work: Unless negotiated otherwise, FATbit Technologies retains the right to list/display the client name and logo with or without work performed (Design/Development/Online Promotion) for the Client in its respective portfolios and promotion materials. This over-rides all previous agreements and NDAs signed.

14. Quotations: The price quoted to the client is for the work agreed in the proposal document only. Should the client decide that changes are required after the project work has been initiated, then FATbit will provide a separate quote for the additional work and may need to review the timescale for completing the project. Cost estimates and prices quoted are valid for maximum one month unless otherwise agreed.

15. Mode of Payment

- a) Clients Based Outside India: International Wire Transfers, Credit Card/PayPal via 2Checkout payment gateway.
- b) Clients Based in India: NEFT, RTGS or Physical Cheques mailed to our office address.
- c) Payments for packages/services other than covered under Startup Package and GoQuick Packages should be made via Wire Transfer only.

16. Payment Terms:

- i. Payment plan is agreed between the 'Client' and FATbit based on the milestones.
- ii. Payment shall be due within 14 days of the invoice date unless specifically mentioned in the Invoice.
- iii. Full publication of the website/technical work will only take place after full payment has been received in our account unless otherwise agreed in writing.
- iv. Any material previously published may be removed if payment is not received. When this occurs, a minimum charge of \$250 USD will be charged to have the site restored.
- v. Accounts that have not been settled within 14 days of the date shown on the invoice will incur a late payment charge of \$100 USD or 5% of the Invoiced Amount (whichever is higher), for each week delayed.
- vi. In case of delay in payments beyond the due date, FATbit reserves the right to stop the work being commenced and 'Client' agrees to exempt FATbit from meeting the timelines agreed.

17. Cancellation: Both the parties reserve the right to cancel the project at any stage.

- i. In case the project is cancelled by Client, the payments made for the project can be refunded to the client after deducting the upfront payment amount received for Initiation of the project and the other payments received against the milestones completed.
- ii. In case the project is cancelled by FATbit, the payments made for the project can be refunded after deducting USD 15 per hour for the hours spent on the work performed for the client including but not limited to the time spent on project discussion, requirements gathering, project planning & documentation, project initiation and execution. After the payments are settled between the two parties – FATbit shall transfer to 'Client' - all the documents, designs and scripts produced for the project.
- iii. **30 days money back guarantee:** FATbit offers "30-Days Money-Back Guarantee" to ensure customer satisfaction and mutual trust. If for any reason you wish to discontinue using the product, within a month of the purchase, we will issue a refund within 24-48 hours after deducting 4% payment gateway transaction fee and USD 15/hour for the hours spent on your project.
 - a) This guarantee is specifically for GoQuick/Start-Up Package orders for our ready solutions. *Start-Up package is available only for Yo!Kart.
 - b) After project/order cancellation/refund issued, FATbit reserves all rights to take down the website published. Client is responsible to keep a backup of the data published on the website/server, FATbit shall not be held responsible for any data/files lost.

18. Penalty Clause

Penalties applicable on FATbit:

FATbit agrees to finish the project as per the detailed project scope agreed to, within the agreed timeline. If there is the delay in finishing the project, FATbit agrees to the penalty of X % of the original project price for each week delay in submitting the Project for the final review to the client. If the FATbit delays the project submission for client's final review by more than 8 weeks, then Client can request for cancellation of the project and seek the full refund, however, the refund amount shall not exceed the originally agreed project price (excluding the Amount Charged for additional requirements and change requests). Amount charged for additional requirements/change requests shall not be refunded.

$X\% = 50/\text{Project Duration Weeks (Calendar Weeks)}$; X% should not exceed 4% unless otherwise explicitly agreed to.

Penalty Amount/Refund applicable shall be adjusted against/out of the pending amount owed by the client towards FATbit/AblySoft and any remaining amount shall be refunded to the client via wire transfer or PayPal or any other mode of payment as per mutual agreement.

Once full refund has been issued, the project shall be marked cancelled and FATbit shall be relieved from all liabilities towards the client and client shall not make any claims, objections, demands from FATbit for any loss or damages incurred at his/her end due to the delay. FATbit shall own all rights on the work done, designs, scripts, documents, other outputs and elements created for the project and client shall not use any of the work, scripts, designs, documents already delivered. Client shall be liable to pay full project price in case Client uses or copies any piece of the work, design, script, elements and documents produced by FATbit for the project.

Responsibilities applicable on Client:

Client should provide all comments, feedbacks, suggestions about the project scope during the Detailed Project Scope Documentation phase; Subsequently any changes or modifications or enhancements done to the project scope would be additionally chargeable with or without delivery timelines revision. And if there are changes which are accepted by FATbit without additional charge, timeline should extend by the number of days required to implement those additional non-billable items.

a. Client should make payments as per the agreed payment terms, else FATbit should be exempt from meeting the timelines agreed to, and will not be liable to any kind of penalties for the delay in delivery of the project.

b. Client should provide his feedback on the work submitted for their review within 1 week, if there is a delay from client side in providing feedback on the work submitted for their review, FATbit should be exempt from meeting the timelines agreed to, and will not be liable to any kind of penalties for the delay in delivery of the project.

c. If Client changes the Functional Requirement – Client understands and accepts that additional cost and working days will be added to the project, **hence the project delivery timeline will need to be revised.**

19. Delayed Response From Client Side: Unreasonable delays from client side in providing the required feedback/information/data to finish the project shall exempt FATbit from meeting the timelines mentioned in the quote.

In case client does not provide required details/data/information for more than 15 working days, client authorizes FATbit to forfeit the payments made towards this project.

In case, during the project duration, the client does not maintain communication with FATbit for more than 30 calendar days, client agrees that the project/services shall be deemed as received and accepted by the client, and the client further authorizes FATbit to mark the project completed and invoice the client for remaining un-invoiced amount as per the total project price agreed.

However, Client can instruct FATbit to put **project on hold** provided:

- a) client agrees to pay project resumption fee of USD 1,000 or 25% of the total project price, whichever is higher.
- b) 'on-hold' period does not exceed 2 calendar months
- c) client agrees the professionals attached to the project (Project Team Structure) may be different from originally agreed.

d) client agrees to pay this project resumption fee every time a project is being put 'on-hold'

- 20. Escalation:** FATbit ensures you get right assistance to resolve issues in a timely manner. If your concerns are not entertained to your satisfaction, you can escalate critical issues to higher level of management. You may follow the below-mentioned escalation matrix to avoid any delay or discomfort in the event of dissatisfaction.

First Level Escalation: In case of delay in project timelines or unsatisfactory response from your associated Project Manager/Business Analyst, You may escalate your case to Shekhar Sharda (shekhar.sharda@fatbit.com) or Rohit Kapoor (rohit.kapoor@fatbit.com) and expect a response within next 2 working days.

Final Escalation: If you don't receive a satisfactory solution from any of the team members following the first level of escalation, or haven't received a reply within 5 business days after submitting your Feedback/Query/Complaint, you may escalate your case to our Chief Sales Officer Mr. Rajiv Sharma (sales@fatbit.com, salesteam@fatbit.com). Rest assured that immediate action will be taken.

- 21. Time Estimates:** Client agrees that stipulated timelines cannot be met if the project scope is changed by client once the project scope document is finalized. Client agrees not to change the requirements without extending the original agreed timelines by minimum 1 week against each change request.
- 22. Share in profits from business or sale of business:** After client makes the agreed payment for the project, FATbit will not claim share in client's profits from business or from sale of business to some other company.
- 23. Copyright/Ownership Rights:** FATbit Technologies will retain the copyright of any material, including design, artwork and the source code, created for the client by FATbit Technologies. FATbit Technologies reserves the right to retain the copyright on all material created by FATbit Technologies unless otherwise agreed between the two parties in writing. As per the agreed terms client owns rights on following items:
- Logo/Graphics/Pictures/Images supplied by client – Yes
 - Website Interface/PSD/Creatives/Designs – Yes, if client has ordered custom design with Exclusive Rights.
 - Programming Files/Source Code – Yes, if the Client has ordered the project with Exclusive Rights. Client does not own the copyright/Intellectual property rights for projects being done on Single Domain License basis.
 - If the project is being done on Single Domain License basis, Client owns the rights to use the system only on designated domains and Client should take reasonable care of the system files to restrict un-authorized access of the system scripts/source code delivered.
- 24. Ownership of Code and Intellectual Property Rights:** Unless otherwise agreed, FATbit is the owner of the source code and the intellectual property rights and reserves the right to reuse the code for other projects. Following terms shall be applicable and obliged:
- Client shall not create un-authorized copies of any Software/Scripts/Designs/File/Document/Information delivered to the Client by FATbit;
 - Client shall not access and/or share and/or transfer any Software/Products/information/document owned by FATbit unless authorized to do so.;
 - Client shall not reverse engineer any software/script/application owned by FATbit.
 - Client shall not make any Software/Document/File/Information available to any third party in any manner, nor may Client use such works to provide services to any third party unless explicitly agreed otherwise in writing.
 - In the event that Client breaches any of terms specified in this clause, Client hereby authorizes any court of competent jurisdiction in India or Abroad to pass the judgment against the Client for and in the amount of USD 100,000 (USD Dollar One Hundred Thousand) for each default, as provided in the afore mentioned paragraphs, together with costs of suit and the cost of attorney incurred by FATbit for recovery of above compensation/damages from Client. These damages/compensation allowed shall be considered as interim relief to FATbit and FATbit shall have the liberty to claim higher amount as compensation for the direct/indirect damages and Employer may pursue criminal proceedings as well.

- 25. Termination of the agreement:** If either party terminates this Agreement for any reason, the parties will continue to perform all of their respective obligations under this Agreement

(Terms 26th to 29th are only applicable in case of Single Domain Non Exclusive License)

- 26. Single Domain License:** Unless otherwise agreed, client agrees to setup the scripts delivered only on one domain, one sub-domain (wip.yourdomain.com) and localhost. However if client wish to run same website on different domain/sub-domain, then client has to purchase separate license for each domain/sub-domain.

No license would be required for Add-on Domains that will point to the main domain where this system will be implemented. All add-on domains will be forwarded to the main domain from the hosting server and no additional license would be required for these domains.

For every new domain or sub-domain, client has to buy a separate license.

- 27. License Validity Period:** Limited period license is issued initially. After 6 months from the date of full payment, life time license is issued. Feel Free to contact FATbit Support Team, in case your license has expired and payment has been made in full, such issues will be resolved on highest priority.
- 28. No recurring costs of license:** There is no renewal/recurring license fee. However, if client wishes to run same website on different domain or sub domain, then client has to purchase separate license for each domain or sub domain.
- 29. Use of encrypted files:** Unless otherwise agreed, FATbit can use own framework (code library in encrypted format) for web applications development for making source code of our intellectual property/scripts secure from other programmers; faster turnaround time; and bug free application development. Client will be provided with detailed documentation for using framework (code library functions). With the help of documentation provided, other programmers can modify the website functionality. FATbit framework is collection of functions related to Database Manipulation, Images/Files Management, Paging, and Form Builder etc. which looks like PHP Functions but have different syntax than default PHP functions. Other willing and efficient PHP programmers can learn and practice these functions/framework within 2-4 days.

Notes: In no event, FATbit Technologies shall be liable to the client or any third party for any damages, including any lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of or inability to operate these Web pages or website, even if FATbit Technologies has been advised of the possibility of such damages. Despite the best efforts of FATbit Technologies, errors in web page information may occur. At no time will FATbit Technologies be held responsible for accidentally including erroneous information, extending beyond correcting the error.

Should FATbit Technologies waive any of these terms on an individual basis, this shall not affect the validity of remaining clauses or commit FATbit Technologies to waive the same clause on any other occasion.

By agreeing to these terms and conditions, your statutory rights are not affected.

FATbit Technologies reserves the right to change or modify any of these terms or conditions at any time, but agreements signed prior to the updates in this agreement remains unaffected. Please feel free to contact us for more info/clarification about any of the terms and conditions mentioned above.