

# easyDITA Free Trial

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THIS FREE TRIAL AGREEMENT ("**AGREEMENT**") GOVERNS YOUR FREE TRIAL OF THE SERVICES.

BY ACCEPTING THIS AGREEMENT BY CLICKING A BOX INDICATING YOUR ACCEPTANCE YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on April 8, 2011. It is effective between You and Us as of the date of You accepting this Agreement.

## 1. DEFINITIONS

"**Services**" means the online, Web-based applications and platform provided by Us via <http://www.easydita.com> and/or other designated websites as described in the User Guide, that are ordered by You as part of a free trial, including associated offline components.

"**User Guide**" means the online user guide for the Services, accessible via <http://www.easydita.com>, as updated from time to time. You acknowledge that You have had the opportunity to review the User Guide during the free trial described in Section 2 (Free Trial) below.

"**Users**" means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your employees, consultants, contractors and agents; or third parties with which You transact business.

"**We**," "**Us**" or "**Our**" means Jorsek, LLC, a New York limited liability company.

"**You**" or "**Your**" means the company or other legal entity for which you are accepting this Agreement.

"**Your Data**" means all electronic data or information submitted by You to the Purchased Services.

## 2. FREE TRIAL

We will make one or more Services available to You on a trial basis free of charge until the earlier of (a)

the end of the free trial period for which you registered or are registering to use the applicable Service or (b) the start date of any Services purchased by You. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

**ANY DATA YOU ENTER INTO THE SERVICES, AND ANY CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL, PURCHASE UPGRADED SERVICES, OR EXPORT SUCH DATA, BEFORE THE END OF THE TRIAL PERIOD. YOU CANNOT TRANSFER DATA ENTERED OR CUSTOMIZATIONS MADE DURING THE FREE TRIAL TO A SERVICE THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL (E.G., FROM ENTERPRISE EDITION TO DEPARTMENTAL EDITION OR FROM DEPARTMENTAL EDITION TO TEAM EDITION); THEREFORE, IF YOU PURCHASE A SERVICE THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL, YOU MUST EXPORT YOUR DATA BEFORE THE END OF THE TRIAL PERIOD OR YOUR DATA WILL BE PERMANENTLY LOST.**

THE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY. NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANY OTHER INDIVIDUAL OR ENTITY CONNECTED WITH YOU FOR ANY CLAIM, LOSS, OR DAMAGE OR ANY KIND OR NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT OR ARISING OUT OF OR IN CONNECTION WITH (1) THE DEFICIENCY OR INADEQUACY OF THE SERVICES FOR ANY PURPOSE, WITH OR NOT KNOWN OR DISCLOSED TO YOU; (2) THE USE OR PERFORMANCE OF THE SERVICES OR ANY FILES, DATA OR COMPUTER SYSTEMS RELATED THERETO OR USED IN CONNECTION THEREWITH; (3) ANY INTERPRETATION OR LOSS OF SERVICE OR USE OF THE SERVICES, OR ANY FILES, DATA, OR OTHER COMPUTER SYSTEMS; (4) ANY SERVICES FAILURE; OR (5) ANY LOSS OF PROFITS, SALES, BUSINESS, DATA, OR OTHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR LOSS OR DAMAGE OF ANY KIND OR NATURE RESULTING FROM THE FOREGOING, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

Please review the User Guide during Your free trial period so that You become familiar with the features and functions of the Services before You make Your purchase.

**2.1. Usage Limitations.** Services may be subject to other limitations, such as, for example, limits on disk storage space, the number of components in content management, on the number of calls You are permitted to make against Our application programming interface, and, for Services that enable You to provide public websites, on the number of page views by visitors to those websites. Any such limitations are specified in the User Guide. The Services provide real-time information to enable You to monitor Your compliance with such limitations.

**2.2. Reservation of Property Rights.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

**2.3. Restrictions on the Services.** You shall not (i) permit any third party to access the Services except as permitted herein, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

## 3. Confidentiality

**3.1. Definition of Confidential Information.** As used herein, "**Confidential Information**" means all confidential information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

**3.2. Protection of Confidential Information.** Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees,

contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

**3.3. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## 4. Miscellaneous

**4.1. Term of Agreement.** This Agreement commences on the date You accept it and continues until the earlier of (i) Your purchase of Services or (ii) 90 days.

**4.2. Assignment.** You may not assign this Agreement without Our prior written consent. Any attempted assignment or delegation without Our prior written consent shall be null and void.

**4.3. Governing Law.** This Agreement will be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflict of laws principles. In the event that any legal proceedings are commenced with respect to any matter arising under this Agreement, the parties specifically consent and agree that the courts of the State of New York and/or the Federal Courts located in the State of New York will have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings, and that the venue of any such action will be in Monroe County, New York and/or the U.S. District Court for the Western District of New York. Additionally, the party that loses any such proceeding will pay all costs and expenses incurred by the other party(s) in connection therewith, including all attorneys' and other professional fees and expenses.

**4.4. Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the transactions contemplated and supersedes any prior agreements or understandings among the parties with respect to the subject matter hereof. This Agreement may only be amended by a written document signed by all parties. There are no representations, warranties, or obligations of any party not expressly contained herein.

**4.5. Survival.** The provisions of this Agreement that by their nature would survive its termination will survive indefinitely.