

Adobe Flash Platform Services

Supplemental Terms of Use

Dated September 21, 2009

1. Acceptance of Adobe Flash Platform Services Terms of Use and Third Party Terms

- a. Welcome to Adobe's Flash Platform Services (the "Service"). Your use of the Service is governed by these Supplemental Terms of Use ("Supplemental Terms"), which supplement the Adobe.com Terms of Use ("General Terms") located at <http://www.adobe.com/misc/copyright.html> and the Adobe Online Privacy Policy ("Privacy Policy") located at <http://www.adobe.com/misc/privacy.html>. Each of the General Terms and Privacy Policy are incorporated herein by reference. Adobe Systems Incorporated ("Adobe") reserves the right to update and change these Supplemental Terms and all documents incorporated by reference from time to time. Capitalized terms used in these Supplemental Terms shall be defined as set forth in the General Terms, Privacy Policy or in these Supplemental Terms. In the event of any inconsistency between these Supplemental Terms, Privacy Policy and the General Terms, these Supplemental Terms shall control with respect to the Service.
- b. In addition, your use of the Service is subject to your agreement to certain terms and conditions of our service provider, Gigya Inc. ("Gigya"), including Gigya's Terms of Service and Privacy Policy of located at <http://www.gigya.com/public/content/Legal/legal.aspx> and certain other agreements you may enter into with Gigya, such as the Gigya Publisher Agreement and the Gigya Advertiser Agreement (all such agreements collectively referred to herein as "Gigya Agreements").

2. Description of the Service and Definitions

- a. By using the Service, you have access to certain services, features and tools, including a mechanism to integrate certain sharing, analytics, promotion, monetization and social services into applications and to track, promote, manage and advertise applications. The Service uses an Adobe AIR application ("AIR Application") that enables users to view the analytics associated with web applications, purchase and track advertising campaigns to promote web applications, and elect to host web application advertising campaigns and track revenue received. The AIR Application is subject to a separate Warranty Disclaimer and Software License Agreement located at <http://www.adobe.com/products/eulas/>.
- b. Gigya provides you with most data and all functions accessible through the Service, including analytics, application syndication, payment processing and credit functions. You agree and acknowledge that the terms of your use of such Gigya data and functions are separately agreed upon between you and Gigya, not Adobe.

3. Collection of Personal Information

The terms of the Privacy Policy and the terms of this Section 3 (Collection of Personal Information) govern Adobe's collection and use of your information. This Section 3 describes the collection of information by this Service that takes place in addition to what is described in the Privacy Policy. **In addition, you agree and acknowledge that Gigya, not Adobe, collects certain information as a part of the services Gigya independently provides to you. The terms under which Gigya collects such information are detailed in the Gigya Agreements.**

a. Information Collected

(i) Information You Provide – Required

When you register to use the Service, you are required to provide certain information to Adobe as part of the registration process including your first and last name, a valid email address, a password and your country of residence. All other information you are required to provide, including your PayPal account username and information on your IRS Form W-9, is collected by Gigya, not Adobe, and is subject to terms of the Gigya Agreements. Information you are required to provide to Adobe or Gigya is referred to as "Required Personal Data." If you do not provide such Required Personal Data, you will not be permitted to create an account and will not be able to interact with the Service. **If you do not wish to have this information collected and used for the purposes described below, then please do not use the Service.**

(ii) Information You Provide - Optional

Adobe may request that you provide us with additional information that tells us more about you - more about your interests, hobbies, preferences, demographic, how you learned about the Service and what other Adobe products and services you use ("Optional Personal Data"). You are under no obligation to provide this information to Adobe; it is voluntary.

(iii) Automatic Information Gathering – Optional. Adobe collects certain non-personally identifiable information in connection with the AIR Application as described in Section 7.1.2 of the Warranty Disclaimer and Software License Agreement located at <http://www.adobe.com/products/eulas/>. In addition, you may elect to provide your existing Gigya Partner ID (if you have one) to Adobe in order to enable your existing Gigya account to be accessed through the Service.

b. How Your Information is Used

(i) Operation of the Service. Adobe uses the Required Personal Data you provide to it to operate the Service including for purposes of communicating to you about operational topics. For example, your Required Personal Data may be used by Adobe to identify you and generate your Gigya Partner ID number, if you do not already have one. As a further example, Adobe may use your Required Personal Data to enable the display of data stored at Gigya for the applications identified as belonging to the Gigya Partner ID(s)

associated with your Required Personal Data.

- (ii) Analysis. Some of the Optional Personal Data are used by Adobe for improving the Service and for internal auditing, analysis and reporting purposes.
- (iii) Validation. You acknowledge and authorize Adobe to make any inquiries, either directly or through third parties, that Adobe considers necessary to validate your Required Personal Data. Adobe reserves all rights to take legal action against anyone who misrepresents Required Personal Information or is otherwise untruthful about their identity and to suspend or cancel Service requested using inaccurate or incomplete information. Notwithstanding the foregoing, you acknowledge that Adobe cannot guarantee the accuracy of any information submitted by any user of the Service, nor any identity information about any user.
- (iv) Uses by Gigya. Gigya's use of your information is subject to the terms of the Gigya Agreements.

4. Information and Content

Content contained in your application (including materials protected by intellectual property laws and information that you provide about individuals, such as an individual's name, photo or data (e.g., an individual's picture in an application)), is distributed in connection with the Service. As between Adobe and you, you shall have sole responsibility for any and all content and personal information of other individuals used and submitted in connection with the Service, and Adobe shall have no responsibility in connection thereto. You shall comply with all intellectual property, data protection and privacy laws and rules applicable to the content and personal information of others. You shall defend, indemnify, and hold harmless Adobe from any claim, suit or proceeding brought against Adobe by another individual(s) or entity(ies) in connection with any acts or omissions with regard to such content or personal information of such other individual(s).

5. Service Limitations

You agree that Adobe retains the right to create reasonable limits on Adobe's use of Your Content, such as limits on processing capacity, and similar limits described in the web pages accompanying the Service and as otherwise determined by Adobe in its sole discretion. If Adobe elects to impose such limitations, Adobe may increase or decrease such limits at any time in its sole discretion. In addition, Adobe may, in its sole discretion, elect to decline to include or cease including any of your applications (either on an application-by-application basis or all applications) in the Service at any time and for any reason.

6. Use of Your Content

This section clarifies Section 8(a) ("Use of Your Content") of the General Terms. Adobe does not claim ownership of Your Content. However, we do need certain rights from you, with respect to Your Content, in order to operate, enable and demonstrate the Service.

Therefore, with respect to Your Content, you grant Adobe a worldwide, royalty-free, nonexclusive, fully sublicensable license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform, publicly display and store Your Content **solely for the purposes of operating the Service, enabling your use of the Service, and demonstrating the Service.**

7. Availability; No Obligation to Continue to Provide

- a. Adobe uses reasonable efforts to make the Service available 24 hours a day, 7 days a week. However, there will be occasions when the Service will be interrupted for maintenance, upgrades and repairs, or as a result of failure of telecommunications links and equipment that are beyond our control. We will take reasonable steps to minimize such disruption, to the extent it is within our reasonable control.
- b. **You acknowledge and agree that Adobe may at any time and from time to time modify or discontinue, temporarily or permanently, the Service or any portion thereof, with or without notice. You agree that Adobe shall not be liable to you or any third party for any modification, suspension or discontinuance of Service.**

8. Termination

a. Termination by You

You may stop using the Service at any time.

b. Termination by Adobe

In addition to the rights that Adobe retains to modify or terminate the Service in accordance with Sections 12 and 13 of the General Terms, a condition of your Service is your "Active Participation" in the Service. Active Participation is defined as signing into the Service at least once every 12 months. If you cease Active Participation for any reason, Adobe may terminate Service (or any part thereof) pursuant to Section 8(c)(ii).

c. Effect of Termination

- (i) Upon the termination of your use of the Service by you or by Adobe due to a breach by you of these Supplemental Terms or the General Terms, Adobe will close your account without notice.
- (ii) Upon termination of your use of the Service for any reason other than under Section 8(c)(i), or upon termination of the Service altogether, Adobe will provide you with thirty (30) days notice, sent to you at the email address you provide to Adobe as part of your registration.

9. DISCLAIMER OF WARRANTIES.

WITHOUT LIMITING ANYTHING CONTAINED IN THE GENERAL TERMS, ADOBE DOES NOT CONTROL, ENDORSE OR ACCEPT RESPONSIBILITY FOR ANY

MATERIALS OR SERVICES OFFERED BY GIGYA. ADOBE MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER ABOUT, AND SHALL NOT BE LIABLE FOR, GIGYA, ITS MATERIALS OR SERVICES. ANY DEALINGS THAT YOU MAY HAVE WITH GIGYA ARE AT YOUR OWN RISK.

10. Compliance with Laws; Miscellaneous

You are solely responsible for each application and the contents thereof, and you shall ensure that each such application and all of its activities in connection with the Service comply with all applicable laws and regulations. Without limiting the foregoing or anything contained in the General Terms or Privacy Policy, you shall ensure that: (i) each application is accurately described and categorized; (ii) each application only uses trademarks, icons, logos and other content and materials that you own, have properly licensed or are otherwise authorized to display or otherwise use; (iii) you access and use the Service, including the Distribution Manager and APIs, only as provided in related documentation provided by Adobe; (iv) you shall not in any way attempt to determine an end user's Adobe ID, Gigya Partner ID or password(s); and (v) you shall not attempt to circumvent any privacy or delivery restrictions imposed by the Service.