

## ADOBE® Touch Apps License Agreement

THIS ADOBE LICENSE (AS AMENDED FROM TIME TO TIME) (THE "AGREEMENT") IS BETWEEN **ADOBE** (AS DEFINED BELOW), AND "**YOU**," THE INDIVIDUAL LICENSING THE APPLICATION (AS DEFINED BELOW) AND/OR ACCESSING OR USING THE SERVICE (AS DEFINED BELOW).

BY USING THE APPLICATION, YOU AGREE (A) THAT ENGLISH LAW GOVERNS YOUR USE OF THE APPLICATION IF YOU RESIDE IN ANY LOCATION *OTHER THAN* THE UNITED STATES, MEXICO, OR CANADA, (B) THAT CALIFORNIA LAW GOVERNS YOUR USE OF THE APPLICATION IF YOU RESIDE IN THE UNITED STATES, MEXICO, OR CANADA, AND (C) TO THE TERMS REGARDING GOVERNING LAW AND VENUE SET FORTH IN SECTION 11 (GOVERNING LAW).

YOU AGREE THAT THIS AGREEMENT IS LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY YOU. BY DOWNLOADING THE APPLICATION, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. ADOBE MAY CHANGE, ADD, OR REMOVE ANY PART OF THIS AGREEMENT, OR ANY PART OF THE APPLICATION, AT ANY TIME. IF ANY FUTURE CHANGES ARE UNACCEPTABLE TO YOU, YOU SHOULD DISCONTINUE USING THE APPLICATION. YOUR CONTINUED USE OF THE APPLICATION, NOW OR FOLLOWING THE POSTING OF NOTICE OF ANY SUCH CHANGES, WILL INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT, AND OF ANY SUCH CHANGES.

### 1. Definitions.

"Adobe" means Adobe Systems Incorporated, a Delaware corporation, 345 Park Avenue, San Jose, California 95110, if this agreement is entered into while you are in the United States, Canada or Mexico; otherwise it means Adobe Systems Software Ireland Limited, 4-6 Riverwalk, Citywest Business Campus, Dublin 24, Ireland.

"Application" means the software named above or referenced in this Agreement and any media, documentation and fonts that relate to that Application. The term "**Application**" also includes any future updates to the Software ("**Updates**"), plug-ins, or modifications that are not delivered to you under separate terms.

"Computer" means a computer device that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions.

"Device" means a Computer, compatible mobile handheld phone, personal digital assistant ("PDA"), tablet computer, or other device capable of hosting, operating, or running the Application that you own or control.

"Service" means, individually and collectively, any Adobe hosted service that is integrated with the Application, including without limitation, the Adobe services stated in Section 6.1.

### 2. Application License.

If you obtained the Application from Adobe or one of its authorized licensees and as long as you comply with the terms of this Agreement, Adobe grants to you a non-exclusive, non-transferable, non-sublicensable, revocable license to install and use the Application on any Device.

### 3. Restrictions and Requirements.

3.1 Use Obligations. You agree that you will not use the Application other than as permitted by this Agreement or applicable law and that you will not use the Application in a manner inconsistent with its design or Documentation.

3.2 No Modifications. You shall not modify, port, adapt, translate, or create derivative works of the Application.

3.3 No Reverse Engineering. You shall not reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Application.

3.4 Notices. You shall not alter or remove any copyright or other proprietary notice that appears on or in the Application.

3.5 No Transfer. YOU WILL NOT RENT, LEASE, SELL, SUBLICENSE, ASSIGN OR TRANSFER YOUR RIGHTS IN THE APPLICATION, OR AUTHORIZE ANY PORTION OF THE APPLICATION TO BE COPIED ONTO ANOTHER INDIVIDUAL OR LEGAL ENTITY'S DEVICE EXCEPT AS MAY BE EXPRESSLY PERMITTED HEREIN.

3.6 No Service Bureau. You will not use or offer the Application on a service bureau basis.

#### **4. Intellectual Property Ownership.**

The Application and any authorized copies that you make are the intellectual property of and are owned by Adobe Systems Incorporated and its suppliers. The structure, organization, and source code of the Application are the valuable trade secrets and confidential information of Adobe and its suppliers. The Application is protected by law, including but not limited to the copyright laws of the United States and other countries, and by international treaty provisions. Except as expressly stated herein, this Agreement does not grant you any intellectual property rights in the Application and all rights not expressly granted are reserved by Adobe and its suppliers.

#### **5. Third-Party Content Files.**

The Application may enable you to search for and access content made available or owned by third parties from directly within the application. You agree that you will comply with any requirements or restrictions imposed on usage of any content by their respective owners and by applicable laws. Although the Application or the Services (defined in Section 6) may provide you with access to such content, neither Adobe's provision of this Application to you nor your use of the Application override the content owners' requirements and restrictions or the applicable laws, which may include copyright and trademark notices, specific license terms or other terms and conditions that may be agreed upon between you and the owners. You are solely responsible for making use of such content in compliance with the content owners' requirements or restrictions and applicable laws. You agree to indemnify Adobe from and against any claims or damages related to your use of such content.

#### **6. Services.**

6.1 Provided by Adobe. The Application facilitates your access to content and various services that are hosted on websites maintained by Adobe or its affiliates. Examples of such Services might include, but are not limited to: the Adobe Creative Cloud content storage, syncing and sharing services that integrate with the Application. In some cases the Service might appear as a feature or extension within the Application even though it is hosted on a website. In some cases, access to a Service might require a separate subscription or other fee in order to access it, and/or your assent to additional terms of use. Such Services might not be available in all languages or to residents of all countries and Adobe may, at any time and for any reason, modify or discontinue the availability of any Service. Adobe also reserves the right to charge a fee for access to or use of an Adobe Online Service that was previously offered at no charge. Because Adobe Services make use of automatic Internet connections, please also see Section 7 for important information regarding Internet connectivity and your privacy. As stated in Section 7, when the Application accesses an Adobe Online Service, your use of such Adobe Online Service is governed by the Adobe Privacy Policy (<http://www.adobe.com/go/privacy>), by the Adobe.com Terms of Use (<http://www.adobe.com/go/terms>) and by any Additional Terms of Use that might be presented to you at that time.

6.2 Provided by Third Parties. The Application may facilitate your access to websites maintained by third parties offering content, goods, information, software, and services (collectively "Third-Party Online Services"). Examples of such Third-Party Online Services might include, but are not limited to, Flickr and Google image search services. Your access to and use of any Third-Party Online Services is governed by the terms, conditions, disclaimers, and notices found on such site or otherwise associated with such Third-Party Online Services. Adobe may at any time, for any reason, modify or discontinue the availability of any Third-Party Online Services from within the Application. Adobe does not control, endorse, or accept responsibility for Third-Party Online Services. Any dealings between you and any third party in connection with a Third-Party Online Service, including such party's terms of use/service, privacy policies and use of your personal information, delivery of and payment for goods and services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between you and such third party. Third-Party Online Services might not be available in all languages or to residents of all countries and Adobe may, at any time and for any reason, modify or discontinue the availability of any Third-Party Online Service from within the Application.

6.3 EXCEPT AS EXPRESSLY AGREED BY ADOBE OR ITS AFFILIATES OR A THIRD PARTY IN A SEPARATE AGREEMENT, YOUR USE OF ADOBE SERVICES AND THIRD PARTY ONLINE SERVICES IS AT YOUR OWN RISK UNDER THE WARRANTY AND LIABILITY LIMITATIONS OF SECTIONS 8 AND 9.

## **7. Internet Connectivity and Privacy.**

7.1 Automatic Connections to the Internet. The Application may cause your Device, without additional notice, automatically to connect to the Internet and to communicate with a website or domain for purposes including, but not limited to, license validation and providing you with additional information, features, and functionality. Unless otherwise specified in Sections 7.2 through 7.6, the following provisions apply to all automatic Internet connections by the Application;

7.1.1 Whenever the Application automatically connects to Adobe over the Internet, the Internet protocol address ("IP Address") that is associated with your current Internet connection is collected by Adobe along with any other information transmitted by the Application to Adobe, as described herein, in the Adobe Online Privacy Policy (<http://www.adobe.com/go/privacy>) and in any other additional terms of use from Adobe that you may accept or be subject to;

7.1.2. If you sign onto an Adobe Online Service, your Adobe ID, user name, and password may be sent to Adobe's servers and stored by Adobe in accordance with the notice and any additional terms of use that may be presented to you at that time ("Additional Terms of Use"). This information may be used by Adobe to send you transactional messages to facilitate the Adobe Online Service;

7.1.3 Adobe may deliver in-product messages to provide information about the Application and other Adobe products and Services, including but not limited to platform version, version of the Application, license status and language; and

7.1.4 Whenever the Application makes an Internet connection and communicates with an Adobe website, whether automatically or due to explicit user request, the Adobe Privacy Policy (<http://www.adobe.com/go/privacy>) shall apply. Additionally, unless you are provided with Additional Terms of Use, the Adobe.com Terms of Use (<http://www.adobe.com/go/terms>) shall apply. Please note that the Adobe Privacy Policy allows tracking of website visits and it addresses in detail the topic of tracking and use of cookies, web beacons, and similar devices.

7.2 Updating. The Application may cause your Device, without additional notice, automatically to connect to the Internet (intermittently or on a regular basis) to check for Updates that are available for download to and installation on your Device and to let Adobe know the results of installation attempts. Please consult the Documentation for information about changing update settings.

7.3 Use of Online Services. The Application may cause your Device, without additional notice and on an intermittent or regular basis, automatically to connect to the Internet to facilitate your access to content and services that are provided to you by Adobe or third parties (Services). In addition, the Application may, without additional notice, automatically connect to the Internet to update downloadable materials from these online services so as to provide immediate availability of these services even when you are offline. Please consult the Documentation for information about changing update settings.

## **8. DISCLAIMER OF WARRANTIES.**

8.1 THE APPLICATION IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, "WITH ALL FAULTS" AND WITHOUT WARRANTY OF ANY KIND. TO THE FULL EXTENT PERMITTED BY LAW, ADOBE, ITS AFFILIATES, CONTRACTORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, LICENSORS, AND ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING OR DELIVERING THE APPLICATION, OR THE ADD-IN DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, SYSTEM INTEGRATION OR COMPATIBILITY, WORKMANLIKE EFFORT, LACK OF NEGLIGENCE, QUIET ENJOYMENT, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, ADOBE DOES NOT WARRANT OR REPRESENT THAT THE SERVICE WILL BE CONTINUOUS, SECURE, RELIABLE, ACCESSIBLE, UNINTERRUPTED OR ERROR-FREE, OR THAT ADOBE'S SERVERS AND APPLICATION ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT ADOBE'S SECURITY PROCEDURES AND MECHANISMS WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO PERSONAL INFORMATION BY THIRD PARTIES.

8.2 SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

## **9. Limitation of Liability.**

9.1 NEITHER ADOBE NOR ITS SUPPLIERS SHALL BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, COVER OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR THE INABILITY TO USE THE SERVICE OR ACCESS DATA, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, OR THE LIKE), ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE APPLICATION AND BASED ON ANY THEORY OF LIABILITY INCLUDING STATUTE, BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADOBE OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

9.2 ADOBE'S TOTAL LIABILITY TO YOU FOR ACTUAL DAMAGES FOR ANY CAUSE WHATSOEVER WILL BE LIMITED TO THE AMOUNT PAID FOR THE APPLICATION, IF ANY. YOU AGREE THAT REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO USE OF THE APPLICATION MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED. ADOBE'S SUPPLIERS SHALL HAVE NO LIABILITY TO YOU FOR ANY REASON.

9.3 THE LIMITATIONS ON LIABILITY IN THIS SECTION ARE INTENDED TO APPLY TO THE WARRANTIES AND DISCLAIMERS ABOVE AND ALL OTHER ASPECTS OF THIS AGREEMENT. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE. Nothing contained in this Agreement limits Adobe's liability to you in the event of death or personal injury resulting from Adobe's gross negligence.

## **10. Export Rules.**

You acknowledge that the Application is subject to the U.S. Export Administration Regulations and other export laws, restrictions, and regulations (collectively, the "Export Laws") and that you will comply with the Export Laws. You will not ship, transfer, export, or re-export the Application, directly or indirectly, to: (a) any countries that are subject to US export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan, and Syria) (each, an "Embargoed Country"), (b) any end user who you know or have reason to know will utilize them in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, and sounding rockets, or unmanned air vehicle systems (each, a "Prohibited Use"), or (c) any end user who has been prohibited from participating in the U.S. export transactions by any federal agency of the U.S. government (each, a "Sanctioned Party"). In addition, you are responsible for complying with any local laws in your jurisdiction which may impact your right to import, export or use the Application. You represent and warrant that (i) you are not a citizen of, or located within, an Embargoed Country, (ii) you will not use the Application for a Prohibited Use, and (iii) you are not a Sanctioned Party. All rights to use the Application are granted on condition that such rights are forfeited if you fail to comply with the terms of this agreement.

## **11. Governing Law.**

This agreement will be governed by and construed in accordance with the substantive laws in force in: (a) the State of California, if a license to the Application is obtained when you are in the United States, Canada, or Mexico; or (b) Japan, if a license to the Application is obtained when you are in Japan; or (c) Singapore, if a license to the Application is obtained when you are in a member state of the Association of Southeast Asian Nations, Mainland China, Hong Kong S.A.R., Macau S.A.R., Taiwan, or the Republic of Korea; or (d) England, if a license to the Application is obtained when you are in any jurisdiction not described above. The respective courts of Santa Clara County, California when California law applies, Tokyo District Court in Japan, when Japanese law applies, and the competent courts of London, England, when the law of England applies, shall each have non-exclusive jurisdiction over all disputes relating to this agreement. When Singapore law applies, any dispute arising out of or in connection with this agreement, including any question regarding its existence, validity, or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this section. There shall be one arbitrator, selected jointly by the parties. If the arbitrator is not selected within thirty (30) days of the written demand by a party to submit to arbitration, the Chairman of the SIAC shall make the selection. The language of the arbitration shall be English. Notwithstanding any provision in this agreement, Adobe or you may request any judicial, administrative, or other authority to order any provisional or conservatory measure, including injunctive relief, specific performance, or other equitable relief, prior to the institution of legal or arbitration proceedings, or during the proceedings, for the preservation of its rights and interests or to enforce specific terms that are suitable for provisional remedies. This agreement will not be governed by the following, the application of which is hereby expressly excluded: (a) the conflict of law rules of any jurisdiction, (b) the United Nations Convention on Contracts for the International Sale of Goods, and (c) the Uniform Computer Information Transactions Act, as enacted in any jurisdiction.

## **12. Notice to U.S. Government End Users.**

12.1 For U.S. Government End Users, Adobe agrees to comply with all applicable equal opportunity laws including, if appropriate, the provisions of Executive Order 11246, as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 USC 4212), and Section 503 of the Rehabilitation Act of 1973, as amended, and the regulations at 41 CFR Parts 60-1 through 60-60, 60-250, and 60-741. The affirmative action clause and regulations contained in the preceding sentence will be incorporated by reference in this agreement.

12.2 For U.S. Government End Users, Software is a "Commercial Item(s)," as that term is defined at 48 C.F.R. Section 2.101, consisting of "Commercial Computer Software" and "Commercial Computer

Software Documentation," as such terms are used in 48 C.F.R. Section 12.212 or 48 C.F.R. Section 227.7202, as applicable. Consistent with 48 C.F.R. Section 12.212 or 48 C.F.R. Sections 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States. Adobe Systems Incorporated, 345 Park Avenue, San Jose, CA 95110-2704, USA.

### **13. European Union Provisions.**

Nothing included in this agreement (including Section 4.4) shall limit any non-waivable right to decompile the Software that you may enjoy under applicable law. For example, if you are located in the European Union (EU), you may have the right upon certain conditions specified in the applicable law to decompile the Software if it is necessary to do so in order to achieve interoperability of the Software with another software program, and you have first asked Adobe in writing to provide the information necessary to achieve such operability and Adobe has not made such information available. In addition, such decompilation may only be performed by you or someone else entitled to use a copy of the Software on your behalf. Adobe has the right to impose reasonable conditions before providing such information. Any information supplied by Adobe or obtained by you, as permitted hereunder, may only be used by you for the purpose described herein and may not be disclosed to any third party or used to create any software that is substantially similar to the expression of the Software or used for any other act that infringes the copyright of Adobe or its licensors.

### **14. Language.**

It is the express wish of the parties that the Agreement and all related documents have been drawn up in English and that the English version of this Agreement shall be the sole version used in interpreting and enforcing this Agreement. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

### **15. General Provisions.**

You are solely responsible for your familiarity and compliance with any laws that may prohibit you from participating in or using any part of the Service. If any provision of this Agreement is held to be invalid or unenforceable, it will not affect the validity of the balance of this Agreement, which will remain valid and enforceable according to its terms. Adobe's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Adobe in writing. Adobe reserves the right, from time to time, with or without notice to you, to change the terms of this Agreement at our sole discretion. Updates may be licensed to you by Adobe with additional or different terms. Your rights hereunder may not be assigned or transferred to any third party. This Agreement, including the Privacy Policy, the Adobe.com Terms of Use and the Additional Terms of Use, constitutes the entire agreement between you and Adobe and supersedes all prior agreements, representations, and understandings between the parties regarding the subject matter contained herein. Third Party notices, terms and conditions pertaining to third party software can be found at <http://www.adobe.com/go/thirdparty> and are incorporated by reference herein.

### **16. Additional Third Party Notice.**

16.1 Apple. If you have downloaded the Application from the Apple iTunes Application Store, the following additional terms apply to such Application and, if any, related Service:

16.1.1 You agree that Apple has no liability for the Application and its content. In addition, your use of the Application downloaded from the Application Store is limited to a non-transferable license to use

the Application on any iPhone™, iPad™ or iPod Touch™ that you own or control as allowed by the Application Store Terms of Service.

16.1.2 You agree that Apple has no obligation whatsoever to furnish any maintenance and support services for the Application.

16.1.3 You agree that Apple has no warranty obligation to the Application. Any claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty set forth in this Agreement are the responsibility of Adobe.

16.1.4 You agree that Apple is not liable for any claims relating to the Application or your possession and/or use of the Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Application fails to conform to any applicable legal requirement; and (iii) consumer protection claims.

16.1.5 You agree that Apple is not liable for any third-party claims that the Application infringes a third party's intellectual property rights.

16.1.6 You agree that Apple and its subsidiaries are third party beneficiaries of this Agreement with respect to any such Application, and that Apple will have the right to enforce the Agreement against you as a third party beneficiary.

If you have any questions regarding this agreement or if you wish to request any information from Adobe, please use the address and contact information included with this product or via the web at <http://www.adobe.com> to contact the Adobe office serving your jurisdiction.

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