ADOBE Adobe Flash Media Live Encoder Software License

NOTICE TO USER: PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("AGREEMENT") CAREFULLY. BY COPYING, INSTALLING OR USING ALL OR ANY PORTION OF THE SOFTWARE YOU ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING, IN PARTICULAR THE LIMITATIONS ON: USE CONTAINED IN SECTION 2; TRANSFERABILITY IN SECTION 4.4; WARRANTY DISCLAIMER IN SECTION 5; AND LIMITATION OF LIABILITY IN SECTION 6. YOU AGREE THAT THIS AGREEMENT IS LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY YOU. THIS AGREEMENT IS ENFORCEABLE AGAINST YOU AND ANY LEGAL ENTITY THAT OBTAINED THE SOFTWARE AND ON WHOSE BEHALF IT IS USED: FOR EXAMPLE, IF APPLICABLE, YOUR EMPLOYER. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT USE THE SOFTWARE. ADOBE AND ITS SUPPLIERS OWN ALL INTELLECTUAL PROPERTY IN THE SOFTWARE. THE SOFTWARE IS LICENSED, NOT SOLD. ADOBE PERMITS YOU TO COPY, DOWNLOAD, INSTALL, USE, OR OTHERWISE BENEFIT FROM THE FUNCTIONALITY OR INTELLECTUAL PROPERTY OF THE SOFTWARE ONLY IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

1. Definitions.

"Adobe" means Adobe Systems Incorporated, a Delaware corporation, 345 Park Avenue, San Jose, California 95110, if subsection 9(a) of this Agreement applies; otherwise it means Adobe Systems Software Ireland Limited, Unit 3100, Lake Drive, City West Campus, Saggart D24, Republic of Ireland, a company organized under the laws of Ireland and an affiliate and licensee of Adobe Systems Incorporated.

"Content" means audio, video and/or data.

"Flash Media Server" means Adobe's proprietary software product that streams Content over the Internet and IP networks to the Flash Player and other Flash Media Servers.

"Flash Player" means Adobe's proprietary client software application that is installed on an end user's computer and allows such end user to view Content.

"Video and Audio Format" means the .flv or .f4v data format, as documented by Adobe, in which Content is encoded and formatted for playback via the Flash Player.

"Sample Code" means sample software and sample applications in source code format made available through Adobe's website and/or provided with the Software.

"Software" means all of the information with which this Agreement is provided, including but not limited to (i) the object code version of the Adobe or third party software files and other computer information; (ii) Sample Code (if any); (iii) any upgrades, modified versions, updates and/or additions to any of the foregoing, if provided to you by Adobe; and (iv) related explanatory written materials and files, including without limitation, the help files that are part of the Software ("Documentation").

2. Software License.

- 2.1 Software License. Subject to the terms and conditions of this Agreement, Adobe hereby grants you a non-exclusive, worldwide, royalty-free license to (a) download, install and use the Software solely to capture Content, encode the Content into Video and Audio Format ("Encoded Content") and record the Encoded Content to a FLV file or F4V file and/or stream the Encoded Content to Flash Media Server; and (b) make a reasonable number of copies of the Documentation solely in connection with use of the Software in accordance with this Agreement, but no more than the amount reasonably necessary.
- 2.2 Sample Code. Notwithstanding Section 2.1, for the Sample Code only, you may modify the Sample Code solely for the purposes of designing, developing, recording and saving files and testing your own software applications. However, you are permitted to use, copy and redistribute its modified Sample Code only if all of the following conditions are met: (a) you include Adobe's copyright notice (if any) with your

application, including every location in which any other copyright notice appears in such application; and (b) you do not otherwise use Adobe's name, logos or other Adobe trademarks to market your application. You agree to defend, indemnify, and hold Adobe and its suppliers harmless from and against any claims or lawsuits, including attorneys' reasonable fees, that arise or result from the use or distribution of your applications, provided that Adobe gives you prompt written notice of any such claim, tenders to you the defense or settlement of such a claim at your expense, and reasonably cooperates with you, at your expense, in defending or settling such claim.

- 2.3 Third Party Software. The Software may contain third party software which requires notices and/or additional terms and conditions. Such required third party software notices and/or additional terms and conditions are located at http://www.adobe.com/products/eula/third_party/flashmediaencoder (or a successor website thereto) and are made a part of and incorporated by reference into this Agreement. These notices may be updated from time to time in Adobe's sole discretion and you are responsible for checking the website and complying with the third party notices.
- **3. Intellectual Property Ownership.** The Software and any authorized copies that you make are the intellectual property of and are owned by Adobe and its suppliers. The structure, organization and code of the Software are the valuable trade secrets and confidential information of Adobe and its suppliers. The Software 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 Software and all rights not expressly granted are reserved by Adobe and its suppliers.

4. Restrictions.

- 4.1 Notices. You may not copy the Documentation except as set forth in Section 2. Any permitted copy of the Documentation that you make must contain the same copyright and other proprietary notices that appear on or in the Documentation. You shall not delete or in any manner alter the copyright notices, trademarks, logos or related notices, or other proprietary rights notices of Adobe (and its licensors, if any) appearing on or within the Software.
- 4.2 No Modifications. You shall not modify, port, adapt or translate the Software except you may modify the Sample Code solely as set forth in Section 2.2. You shall not reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Software. Notwithstanding the foregoing, decompiling the Software is permitted to the extent the laws of your jurisdiction give you the right to do so to obtain information necessary to render the Software interoperable with other software; provided, however, that you must first request such information from Adobe and Adobe may, in its discretion, either provide such information to you or impose reasonable conditions, including a reasonable fee, on such use of the source code to ensure that Adobe's and its suppliers' proprietary rights in the source code for the Software are protected.
- 4.3 General Restrictions. When used for streaming the Encoded Content to the Flash Media Server, you may only use the Software to stream Encoded Content to the Flash Media Server. You may not use the Software in any way to create a server, executable, or other program that will steam or deliver data and/or content from a client to a server, from a server to another server, or from a server to a client. You shall be solely responsible to your end users for any update or support obligation or other liability which may arise from the end users' access to the Encoded Content.
- 4.4 No Transfer. YOU MAY NOT RENT, LEASE, SELL, SUBLICENSE, ASSIGN OR TRANSFER YOUR RIGHTS IN THE SOFTWARE, OR AUTHORIZE ANY PORTION OF THE SOFTWARE TO BE COPIED ONTO ANOTHER INDIVIDUAL OR LEGAL ENTITY'S COMPUTER.
- **5. WARRANTY DISCLAIMER.** THE SOFTWARE IS PROVIDED "AS IS" AND ADOBE AND ITS AFFILIATES AND SUPPLIERS DISCLAIM ALL WARRANTIES, CONDITIONS, REPRESENTATIONS AND TERMS, EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE AS TO ANY MATTER, INCLUDING BUT NOT

LIMITED TO PERFORMANCE, SECURITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, INTEGRATION, MERCHANTABILITY, QUIET ENJOYMENT, SATISFACTORY QUALITY OR FITNESS FOR ANY PARTICULAR PURPOSE. THIS DISCLAIMER OF WARRANTY MAY NOT BE VALID IN SOME STATES, SO IT MAY NOT APPLY TO YOU. The provisions of Sections 5 and 6 will survive the termination of this Agreement, howsoever caused, but this will not imply or create any continued right to use the Software after termination of this Agreement.

- 6. LIMITATION OF LIABILITY. IN NO EVENT WILL ADOBE, ITS AFFILIATES OR SUPPLIERS BE LIABLE TO YOU FOR ANY LOSS, DAMAGES, CLAIMS OR COSTS WHATSOEVER INCLUDING ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, ANY LOST PROFITS OR LOST SAVINGS, ANY DAMAGES RESULTING FROM BUSINESS INTERRUPTION, PERSONAL INJURY OR FAILURE TO MEET ANY DUTY OF CARE, OR CLAIMS BY A THIRD PARTY, EVEN IF AN ADOBE REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, DAMAGES, CLAIMS OR COSTS. THE FOREGOING LIMITATIONS AND EXCLUSIONS APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN YOUR JURISDICTION. ADOBE'S AGGREGATE LIABILITY AND THAT OF ITS AFFILIATES AND SUPPLIERS UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT PAID FOR THE SOFTWARE AND SAMPLE CODE, IF ANY. THIS LIMITATION WILL APPLY EVEN IN THE EVENT OF A FUNDAMENTAL OR MATERIAL BREACH OR A BREACH OF THE FUNDAMENTAL OR MATERIAL TERMS OF THIS AGREEMENT. THIS LIMITATION OF LIABILITY MAY NOT BE VALID IN SOME STATES, SO IT MAY NOT APPLY TO YOU.
- **7. Term and Termination.** This Agreement is effective until any material breach of this Agreement by you occurs, upon which this Agreement shall automatically terminate. You agree to cease use of the Software immediately upon termination and to destroy the Software and all copies thereto. Sections 1, 3, 5, 6, 7, 8, 9, 10 and 11 shall survive any termination of this Agreement.
- **8.** Export Rules. You agree that the Software will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions or regulations (collectively the "Export Laws"). In addition, if the Software is identified as an export controlled item under the Export Laws, you represent and warrant that you are not a citizen of, or located within, an embargoed or otherwise restricted nation (including without limitation Iran, Syria, Sudan, Libya, Cuba and North Korea) and that you are not otherwise prohibited under the Export Laws from receiving the Software. All rights to use the Software and are granted on condition that such rights are forfeited if you fail to comply with the terms of this Agreement.
- 9. 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 Software is obtained when you are in the United States, Canada, or Mexico; or (b) Japan, if a license to the Software is obtained when you are in Japan, China, Korea, or other Southeast Asian country where all official languages are written in either an ideographic script (e.g., hanzi, kanji, or hanja), and/or other script based upon or similar in structure to an ideographic script, such as hangul or kana; or (c) England, if a license to the Software 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. This Agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.
- 10. General Provisions. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of this Agreement, which will remain valid and enforceable according to its terms. This Agreement will not prejudice the statutory rights of any party dealing as a consumer. This Agreement may only be modified by a writing signed by an authorized officer of Adobe. The English version of this Agreement will be the version used when interpreting or construing this Agreement. This is the entire Agreement between Adobe and you relating to the Software and it supersedes any prior representations, discussions, undertakings, communications or advertising relating to the Software.

11. Notice to U.S. Government End Users. The Software and Documentation are "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. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §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.

FlashMediaLiveEncoder_WWEULA_En_20101109