

## INFINITE MEDIA ACCELERATION SOFTWARE LICENSE AGREEMENT

This is a License Agreement (the "Agreement") for certain code (the "Software") owned by Akamai Technologies, Inc. ("Akamai") that is useful in connection with Akamai's Infinite Media Acceleration offerings.

Please read this Agreement. By using the Software, or any modified version of the Software customized by Akamai or you ("You" or the "Licensee"), You agree to these terms. If You do not agree to the terms of this Agreement, the Software cannot be integrated with Your environment or otherwise used for any purpose.

### 1. ACCEPTATION AND NATURE OF THIS AGREEMENT

- 1.1. This Agreement may also be part of a binding contract between the Licensee and Akamai as an integrated appendix to an order form or other type of service agreement between the Licensee and Akamai.
- 1.2. If the Licensee cannot accept to be bound by the stipulations of this Agreement, the Licensee shall immediately discontinue any use of the Infinite Media Acceleration Software and Licensee shall immediately delete any copies of the Infinite Media Acceleration Software in his possession.
- 1.3. If the undersigned is accepting to be bound by this Agreement on behalf of his employer or other entity, he represents and warrants that he will have full legal authority to bind his employer or such entity to the Agreement. If the undersigned does not have the required authority, this Agreement will not be deemed to be valid and he will not be able to use the Infinite Media Acceleration Software on behalf of his employer or other entity.
- 1.4. The use of the Infinite Media Acceleration App by the end-user to whom the Licensee may have distributed copies of the Infinite Media Acceleration App is governed by the Infinite Media Acceleration End User License Agreement at (<https://community.akamai.com/docs/DOC-5296>).
- 1.5. Licensee will state in all of Licensee's end-user documentation, end-user guides or Licensee's Terms of Use or Terms of Service, that any use of the Infinite Media Acceleration App is subject to the Infinite Media Acceleration End User License Agreement with the link to (<https://community.akamai.com/docs/DOC-5296>). Subject to separate approval by Akamai, the Infinite Media Acceleration End User License Agreement can be incorporated in Licensee's own Terms of Use.

### 2. DEFINITIONS. For the specific purpose of this Agreement, the following terms shall have the following meaning:

- 2.1. **"Infinite Media Acceleration App"** or the **"App"** shall mean either an application for installation on devices (including but not limited to iOS and Android), a SWF plugin for Internet browsers (including but not limited to Safari, Firefox and Chrome), an application to be installed on personal computers (including but not limited to Microsoft Windows, Mac OS and Linux) or on Smart-TVs and set-top boxes.
- 2.2. **"Infinite Media Acceleration SDK"** (Software Development Kit) shall mean the Akamai API in clear text, including a reference implementation and all related documentation.
- 2.3. **"Infinite Media Acceleration Software"** shall consist the Infinite Media Acceleration SDK and the Infinite Media Acceleration App.
- 2.4. **"Infinite Media Acceleration Global Infrastructure"** shall mean a cloud-based global content delivery network designated for Infinite Media Acceleration Products.
- 2.5. **"Intellectual Property Rights"** shall mean any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary rights.

### 3. PURPOSE OF THIS AGREEMENT

Under this Infinite Media Acceleration Software License Agreement (the "Agreement") the Licensee is granted a license to:

- Distribute copies of the Infinite Media Acceleration App to his or his partner's end-user(s).
- Use the Infinite Media Acceleration SDK to integrate the Infinite Media Acceleration App and his applications and solutions to enable interaction and exchange of data between Licensee's applications and solutions and Infinite Media Acceleration Global Infrastructure and distribute to his end-user(s) such integrated Infinite Media Acceleration App and his applications and solutions.

### 4. GENERAL LIMITATIONS

- 4.1. The Licensee's use of Infinite Media Acceleration Software and any other Akamai IPR is subjected to the terms and conditions of this Agreement. Only expressly permitted use according to this Agreement is allowed. All use outside the Agreement is prohibited unless Akamai grants permission in writing on a case by case basis.
- 4.2. The Licensee agrees to comply with any export restrictions in place in any applicable territories.

## **5. USE OF THE INFINITE MEDIA ACCELERATION SDK**

Subject to the terms and conditions of this Agreement, Akamai grants the Licensee a limited, worldwide, royalty-free, non-assignable and non-exclusive license to use the Infinite Media Acceleration SDK solely to integrate the Infinite Media Acceleration App and his applications to interact and exchange data with Infinite Media Acceleration Global Infrastructure and Akamai servers.

- 5.1. Except to the extent required by applicable third party licenses, or otherwise expressly permitted by this Agreement, the Licensee may not copy (except for backup purposes), modify, adapt, redistribute, decompile, reverse engineer, disassemble, or create derivative works of the Infinite Media Acceleration SDK or any part of the Infinite Media Acceleration SDK.
- 5.2. However, within the use permitted in this section 5, the Licensee may modify and create derivative works of the reference implementation that is part of the Infinite Media Acceleration SDK.
- 5.3. The Licensee agrees to use the Infinite Media Acceleration SDK only for purposes that are permitted by (a) this Agreement and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions.
- 5.4. The Licensee agrees only to use the Infinite Media Acceleration SDK in full compliance with any terms and conditions applicable for the development, marketing and distribution of the Infinite Media Acceleration Software as part of Licensee's applications or solutions on third party platforms.
- 5.5. The Licensee agrees that if he uses the Infinite Media Acceleration SDK to develop applications or integrate into solutions for general public users, he will protect the privacy and legal rights of those users according to relevant jurisdictions and under terms no less stringent than the End User License Agreement.
- 5.6. The Licensee agrees that he will not engage in any activity with the Infinite Media Acceleration SDK, including the development or distribution of an application or solution, that interferes with, disrupts, damages, or accesses in an unauthorized manner the servers, networks, or other properties or services of any third party including, but not limited to, Akamai (among these Akamai servers) or any mobile communications carrier.
- 5.7. The Licensee agree that he is solely responsible and liable for (and that Akamai has no responsibility to or liability towards the Licensee or to any third party, including the Licensee's end-users or Licensee's Partners' end-users) any data, content, or resources that he may create, transmit or display through the Infinite Media Acceleration Global Infrastructure by the use of Akamai servers, and that the Licensee is solely responsible and liable for the consequences of his actions (including any loss or damage which Akamai may suffer) by doing so.
- 5.8. The Licensee agrees that he is solely responsible for (and that Akamai has no responsibility to the Licensee or to any third party, including the Licensee's end-users) and liable for any breach of his obligations under this Agreement, any applicable third party contract or Terms of Use, or any applicable law or regulation, and for the consequences (including any loss or damage which Akamai or any third party may suffer) of any such breach.

## **6. USE OF THE INFINITE MEDIA ACCELERATION APP**

Subject to the terms and conditions of this Agreement, Akamai grants the Licensee a limited, worldwide, royalty-free, non-assignable and non-exclusive license to distribute copies of the Infinite Media Acceleration App to end-users for installation on end-users' devices or as plugins for Internet browsers, either alone or embedded in Licensee's own applications and/or solutions.

- 6.1. The Licensee may distribute copies of the Infinite Media Acceleration App to end-users either by directing the end-users to download from servers controlled by Akamai, by Licensee, by 3<sup>rd</sup> party platform owners (not limited to App store or Google Play) or by preinstalling on devices.
- 6.2. The Licensee's license to use and integrate the Infinite Media Acceleration App and to distribute copies to end-users is expressly conditioned upon his obtaining from each end-user, directly or indirectly, acceptance of the terms of use of the Infinite Media Acceleration App, as stated in the Infinite Media Acceleration End User License Agreement (<https://community.akamai.com/docs/DOC-5296>). End user acceptance may be done in the following way: "These Terms are accepted by you (a) when

you click to accept or agree to the Terms; or (b) when you download and/or use the Software and/or Products.”)

- 6.3. Except to the extent required by applicable third party licenses, or otherwise expressly permitted by the Agreement, the Licensee may not copy (except for backup purposes), modify, adapt, redistribute, decompile, reverse engineer, disassemble, or create derivative works of the Infinite Media Acceleration App or any part of the Infinite Media Acceleration App.

## **7. FUTURE VERSIONS**

- 7.1. The Licensee agrees that the form and nature of the Infinite Media Acceleration Software that Akamai provides may be updated, upgraded and changed. Akamai will use reasonable commercial efforts to notify Licensee in advance and to make future versions of the Infinite Media Acceleration Software compatible with applications developed on previous versions of the Infinite Media Acceleration SDK, save for issues that are not controlled by Akamai.
- 7.2. Akamai will use reasonable commercial efforts to continue providing the Infinite Media Acceleration App and the Akamai SDK (and any features within the Akamai App and the Infinite Media Acceleration SDK) to Licensee or to the end-users, save for issues that are not controlled by Akamai.
- 7.3. The Licensee will use all reasonable commercial efforts to integrate the most recent versions the Infinite Media Acceleration Software in his applications and solutions to enable interaction and exchange of data between his applications and solutions and Akamai servers on Infinite Media Acceleration Global Infrastructure, either directly or by Partners. Accordingly, the Licensee warrants to implement, deploy, and distribute new versions such integrated applications and solutions as soon as reasonably possible, in agreement with Akamai.

## **8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1. The Licensee agrees that Akamai or third parties own all Intellectual Property Rights, title and interest in and to the Infinite Media Acceleration Software. Akamai reserves all rights not expressly granted to the Licensee.
- 8.2. Nothing in this Agreement gives the Licensee a right to use any of Akamai's trade names, trademarks, service marks, logos, domain names, or other distinctive brand features for its Infinite Media Acceleration Products. To use the “Infinite” name and logo for promotional and marketing purpose, the Licensee must first obtain a written permission by Akamai.
- 8.3. The Licensee agrees that he will not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) that may be affixed to or contained within the Infinite Media Acceleration Software.

## **9. THIRD PARTY AND OPEN SOURCE SOFTWARE**

Akamai may distribute third party software programs, including open source software, with the Software. These third party software programs are subject to their own license terms. Any use, reproduction and distribution of components of the Infinite Media Acceleration Software licensed under a third party software license will be governed solely by the terms of that third party software license and not by this Agreement. If Customer does not agree to abide by the applicable license terms for such third party software programs, then Customer must not install them. The “Infinite Media Acceleration Third Party Software Addendum” listing the associated third party software programs that may be required or utilized by the Software can be found at ([www.akamai.com/product/licenses](http://www.akamai.com/product/licenses)), and Customer hereby agrees to properly install and abide by the terms and conditions thereof.

## **10. PRIVACY AND INFORMATION**

In order to continually innovate and improve the Infinite Media Acceleration App and the Infinite Media Acceleration SDK, Akamai may collect certain anonymous network and data traffic statistics from the Infinite Media Acceleration App and the Infinite Media Acceleration SDK. Akamai shall process the collected performance and quality data in accordance with Infinite Media Acceleration End User License Agreement (<https://community.akamai.com/docs/DOC-5296>).

## **11. AKAMAI API**

- 11.1. In the case that Akamai's API are used to retrieve data through Infinite Media Acceleration Global Infrastructure by Akamai servers, the Licensee acknowledges that the data may be protected by

Intellectual property rights which are owned by Akamai or those parties that provide the data (or by other persons or companies on their behalf).

11.2. In the case that Akamai's API are used to retrieve personal data from Infinite Media Acceleration Global Infrastructure or Akamai servers, the Licensee acknowledges and agrees that he shall retrieve data only in full compliance with applicable law on protection of personal data.

## **12. TERMINATION OF THE AGREEMENT**

12.1. If this Agreement is related to a Service Order Form or other service agreement between the parties, this Agreement is automatically terminated if the related service agreements are terminated.

12.2. Akamai may at any time, terminate the Agreement with the Licensee if:

- A. The Licensee has breached any provision of the Agreement
- B. Akamai is required to do so by law

12.3. The Infinite Media Acceleration End User License Agreement regulates the termination of the end-users' use of the Infinite Media Acceleration App.

## **13. DISCLAIMER OF WARRANTIES**

13.1. THE LICENSEE EXPRESSLY UNDERSTANDS AND AGREES THAT HIS USE OF THE INFINITE MEDIA ACCELERATION SOFTWARE IS AT HIS SOLE RISK AND THAT THE INFINITE MEDIA ACCELERATION SOFTWARE IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND FROM AKAMAI.

13.2. THE LICENSEE'S USE OF THE INFINITE MEDIA ACCELERATION SOFTWARE AND ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE INFINITE MEDIA ACCELERATION SOFTWARE IS AT HIS OWN DISCRETION AND RISK AND HE IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO THE LICENSEE'S COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH USE.

13.3. AKAMAI FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

## **14. LIMITATION OF LIABILITY**

THE LICENSEE EXPRESSLY UNDERSTANDS AND AGREES THAT AKAMAI, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO HIM UNDER ANY THEORY OF LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES THAT MAY BE INCURRED BY HIM, INCLUDING ANY LOSS OF DATA, WHETHER OR NOT AKAMAI OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

## **15. INDEMNIFICATION**

To the maximum extent permitted by law, The Licensee agrees to defend, indemnify and hold harmless Akamai, its affiliates and their respective directors, officers, employees and agents from and against any and all claims, actions, suits or proceedings, as well as any and all losses, liabilities, damages, costs and expenses (including reasonable attorney's fees) arising out of or accruing from (a) the Licensee's use of the Infinite Media Acceleration Software, (b) any application the Licensee develops on or with the Infinite Media Acceleration Software that infringes any Intellectual property right of any person or defames any person or violates their rights of publicity or privacy, (c) The Licensee's failure to secure that each end-user before receipt of a copy of the Infinite Media Acceleration App has in a legally binding manner towards Akamai accepted the terms and conditions of the Infinite Media Acceleration End User License Agreement and (d) any non-compliance by the Licensee with the Agreement.

## **16. CHANGES TO THE AGREEMENT**

Akamai may make changes to this Agreement as it distributes new versions of the Infinite Media Acceleration Software. When these changes are made, Akamai will make a new version of the Agreement available on the website where the Infinite Media Acceleration Software is made available.

## **17. GENERAL LEGAL TERMS**

- 17.1. This Agreement constitutes the whole legal agreement between the Licensee and Akamai and governs his use of Infinite Media Acceleration Software (excluding any services which Akamai may provide to the Licensee under a separate written agreement), and completely replaces any prior agreements between the Licensee and Akamai in relation to the Infinite Media Acceleration Software.
- 17.2. The Licensee agrees that if Akamai does not exercise or enforce any legal right or remedy which is contained in the Agreement (or which Akamai has the benefit of under any applicable law), this will not be taken to be a formal waiver of Akamai's rights and that those rights or remedies will still be available to Akamai.
- 17.3. If any court of law, having the jurisdiction to decide on this matter, rules that any provision of the Agreement is invalid, then that provision will be removed from the Agreement without affecting the rest of the Agreement. The remaining provisions of the Agreement will continue to be valid and enforceable.
- 17.4. The Licensee acknowledges and agrees that each member of the group of companies of which Akamai is the parent shall be third party beneficiaries to the Agreement and that such other companies shall be entitled to directly enforce, and rely upon, any provision of the Agreement that confers a benefit on (or rights in favor of) them. Other than this, no other person or company shall be third party beneficiaries to the Agreement.
- 17.5. The rights granted in the Agreement may not be assigned or transferred by either the Licensee or Akamai without the prior written approval of the other party. Neither the Licensee nor Akamai shall be permitted to delegate their responsibilities or obligations under the Agreement without the prior written approval of the other party.

## **18. JURISDICTION**

This Agreement shall be governed by the laws of the United States and those of the Commonwealth of Massachusetts. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be unenforceable, the remainder of this Agreement shall continue in full force and effect.

Notwithstanding this, The Licensee agrees that Akamai shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

### **APPENDIX A: INFINITE MEDIA ACCELERATION END USER LICENSE AGREEMENT SPECIAL IMPLEMENTATION FOR MOBILE DEVICES**

1. **GENERAL CONDITIONS:** As stated in sections 1 and 6 of this Agreement, the Licensee commits that end-users will be bound by the terms and conditions of the Infinite Media Acceleration End User License Agreement. In order to ensure the best-user experience and the extension of this commitment, the Licensee agree to follow Akamai's guidelines and instructions in relation to the implementation of Infinite Media Acceleration App on the Licensee's mobile device applications.
2. For Licensee's mobile device applications on *iOS*: The implementation of Infinite Media Acceleration End User License Agreement in the iOS platform will be done by making available a copy of the agreement in the Apple App store below the description of the Licensee's final application. The agreement will be copied in the "Legal" section as provided in the Apple App Store.
3. For Licensee's mobile device applications on *Android*: The implementation of Infinite Media Acceleration End User License Agreement in the Android platform will be done by making available a direct hyperlink to the agreement below the description of the Licensee's final application. This link will be located at the end of the "App Description" section in the "Google Play" store.
4. For Licensee's mobile device applications on *Windows*: The implementation of Infinite Media Acceleration End User License Agreement in the Windows platform will be done by making available a direct hyperlink to the agreement below the description of the Licensee's final application. The link to agreement will be copied in the "Additional Terms" section as provided in the Windows Store.
5. Licensee further undertakes to comply with and perform all necessary tasks to ensure that the Infinite Media Acceleration End User License Agreement is available to the end-users in languages required under the rules and legislation of all applicable jurisdictions.