

InVision Freebie Licensing Agreement

Please read this "[Freebie Licensing Agreement](#)" (the "Agreement") fully and carefully before downloading and using any InVision downloadable content made available by InVisionApp Inc. and its affiliates ("InVision", "[we](#)", "[us](#)" or "[our](#)"), where such downloadable content is made available from a website that links to and/or is packaged with this Agreement (collectively, the "[Freebies](#)").

For clarity, this Agreement does not apply to any other InVision products or services, unless expressly stated by InVision.

This Agreement incorporates InVisionApp Inc.'s Privacy Policy <https://www.invisionapp.com/privacy>, which is hereby made a part of this Agreement.

This Agreement sets forth the legally binding terms and conditions for your use of the Freebies. By downloading, installing and/or using the Freebies, you or the company or entity that you represent ("[you](#)," "[your](#)," "[yours](#)" or "[customer](#)") are consenting to be bound by and are becoming a party to this Agreement. You are also representing and warranting that the individual clicking on the button is authorized to enter into this Agreement and bind such entity. If you are using the services on behalf of a company or other entity, then all references to "you" or "your" herein shall refer to both the individual and the entity.

If you do not unconditionally agree to all of the terms of this Agreement, you will have no right to use the Freebies (and you should immediately cease all such use). If this Agreement is considered an offer, acceptance is expressly limited to this Agreement to the exclusion of all other terms.

1. **License to use the Freebies.** You acknowledge that all use of the Freebies is at your own risk and you will be solely responsible for any damage or loss to you or any other party resulting therefrom. Subject to this Agreement, InVision grants to you a worldwide, non-exclusive, perpetual (subject to Section 10m), sublicensable (solely as permitted in Section 1a and b), and transferable (solely as permitted in Section 10d) license to use our Freebies solely for purposes of your own use to create new value-added products that incorporate our Freebies (“End Products”). Your authorized use is limited to:

- a. Use of the Freebies to create End Products, including the right to modify and create derivative works from the Freebies in furtherance of the same; and
- b. Developing, marketing, reproducing, performing, displaying, promoting, distributing and otherwise exploiting such End Products.. All Freebies included in any End Products must be sublicensed and not sold.

2. **Restrictions on Use of the Freebies.** You will not directly or indirectly:

- a. sell, license, sublicense, rent, or lease the Freebies, or otherwise make the Freebies available to, or use the Freebies for the benefit of, any third party, other than as part of an End Product. If you would like to request an exception to this restriction, please contact us to request our express prior written consent, which consent will only be made at our sole discretion;
- b. access or use the Freebies in order to build a product or service that is competes with an InVision product or service;
- c. use the Freebies in a manner likely to damage the reputation or goodwill of InVision or the Freebies; or
- d. remove any copyright notices, information, and restrictions contained in the Freebies.

3. **Proprietary Rights.** As between the parties, all right, title and interest in and to the Freebies is and will remain the sole and exclusive property of InVision.

Except as expressly set forth herein, no license or other right, title or interest in the Freebies is granted by InVision to you.

4. **Copyright Policy.** We have adopted the following general policy toward copyright infringement in accordance with the Digital Millennium Copyright Act (<http://lcweb.loc.gov/copyright/legislation/dmca.pdf>). The address of the Designated Agent to Receive Notification of Claimed Infringement ("Designated Agent") is listed at the end of this policy.

a. Procedure for Reporting Copyright Infringement:

- i. If you believe that material or content residing on or accessible through our websites, application, or services infringes a copyright, please send a notice of copyright infringement containing the following information to the Designated Agent listed below:
- ii. A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed;
- iii. Identification of works or materials being infringed;
- iv. Identification of the material that is claimed to be infringing including information regarding the location of the infringing materials that the copyright owner seeks to have removed, with sufficient detail so that we are capable of finding and verifying its existence;
- v. Contact information about the notifier including address, telephone number and, if available, email address;
- vi. A statement that the notifier has a good faith belief that the material is not authorized by the copyright owner, its agent, or the law; and

- vii. A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the copyright owner.
- viii. Please contact the Designated Agent to Receive Notification of Claimed Infringement for InVision at:

InVisionApp Inc.
41 Madison Ave.
New York, NY 10010
support@invisionapp.com

5. **Representations and Warranties.** You represent, warrant, and covenant that you shall only use the Freebies in accordance with all applicable laws, rules, and regulations, this Agreement and any relevant documentation provided by InVision.

6. **Warranty Disclaimer.**

- a. We make no representations concerning the Freebies, and we will not be responsible or liable for the accuracy, copyright compliance, or legality of material contained in or accessed through the Freebies.
- b. THE FREEBIES ARE PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.
- c. You shall and hereby do waive California Civil Code Section 1542 or any other similar law of any jurisdiction, which says in substance: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor". Some jurisdictions do not allow the exclusion of implied

warranties, so the above exclusion may not apply to you. You may have other rights which vary from jurisdiction to jurisdiction.

7. **Indemnification.** You are solely responsible for your conduct related to the Freebies. You shall defend, indemnify, and hold harmless us, our affiliates and each of our and their respective employees, contractors, directors, suppliers and representatives from all liabilities, claims, and expenses, including reasonable attorneys' fees, that arise from or relate to your use or misuse of, or access to, the Freebies, violation of this Agreement, or infringement by you, of any intellectual property or other right of any person or entity. Your indemnification obligations include the actions of any third party you let access the Freebies, or using your copy of the Freebies or your End Products. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will assist and cooperate with us in asserting any available defenses.
8. **Limitation of Liability.** IN NO EVENT SHALL WE, NOR OUR AFFILIATES, NOR OUR OR THEIR DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO YOUR USE OF THE FREEBIES OR ANY OTHER CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT: (A) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, COMPENSATORY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (HOWEVER ARISING); (B) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGINATION); OR (C) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) \$500.00.
9. **ARBITRATION CLAUSE & CLASS ACTION WAIVER – IMPORTANT – PLEASE REVIEW AS THIS AFFECTS YOUR LEGAL RIGHTS**
 - a. **ARBITRATION; CLASS ACTION WAIVER.** YOU AGREE THAT ALL DISPUTES BETWEEN YOU AND US (WHETHER OR NOT SUCH DISPUTE INVOLVES A THIRD PARTY) WITH REGARD TO YOUR RELATIONSHIP WITH US, INCLUDING WITHOUT LIMITATION DISPUTES RELATED TO THIS AGREEMENT, YOUR USE OF THE FREEBIES, AND/OR RIGHTS OF

PRIVACY AND/OR PUBLICITY, WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION IN ACCORDANCE WITH THE STREAMLINED ARBITRATION RULES AND PROCEDURES OF JAMS THEN IN EFFECT, AND YOU AND WE HEREBY EXPRESSLY WAIVE TRIAL BY JURY; PROVIDED, HOWEVER, THAT TO THE EXTENT THAT YOU HAVE IN ANY MANNER VIOLATED OR THREATENED TO VIOLATE OUR INTELLECTUAL PROPERTY RIGHTS, WE MAY SEEK INJUNCTIVE OR OTHER APPROPRIATE RELIEF IN ANY STATE OR FEDERAL COURT IN THE STATE OF NEW YORK. DISCOVERY AND RIGHTS TO APPEAL IN ARBITRATION ARE GENERALLY MORE LIMITED THAN IN A LAWSUIT, AND OTHER RIGHTS THAT YOU AND WE WOULD HAVE IN COURT MAY NOT BE AVAILABLE IN ARBITRATION. AS AN ALTERNATIVE, YOU MAY BRING YOUR CLAIM IN YOUR LOCAL "SMALL CLAIMS" COURT, IF PERMITTED BY THAT SMALL CLAIMS COURT'S RULES AND IF WITHIN SUCH COURT'S JURISDICTION, UNLESS SUCH ACTION IS TRANSFERRED, REMOVED OR APPEALED TO A DIFFERENT COURT. YOU MAY BRING CLAIMS ONLY ON YOUR OWN BEHALF. NEITHER YOU NOR WE WILL PARTICIPATE IN A CLASS ACTION OR CLASS-WIDE ARBITRATION FOR ANY CLAIMS COVERED BY THIS PRODUCT LICENSING AGREEMENT TO ARBITRATE. YOU ARE GIVING UP YOUR RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM YOU MAY HAVE AGAINST US INCLUDING ANY RIGHT TO CLASS ARBITRATION OR ANY CONSOLIDATION OF INDIVIDUAL ARBITRATIONS. You also agree not to participate in claims brought in a private attorney general or representative capacity, or consolidated claims involving another person's account, if we are a party to the proceeding. This dispute resolution provision will be governed by the Federal Arbitration Act and not by any state law concerning arbitration. Judgment on the award rendered by the arbitrator may be entered in any court having competent jurisdiction. Any provision of applicable law notwithstanding, the arbitrator will not have authority to award damages, remedies or awards that conflict with this Agreement. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of, related to or connected with the use of the Freebies or this Agreement must be filed within one (1) year after such claim of action arose or be forever barred

- b. **30-Day Opt-Out Period.** If you do not wish to be bound by the arbitration and class-action waiver provisions in this Section 9, you must notify us in

writing within 30 days of the date that you first accept this Agreement (unless a longer period is required by applicable law). Your written notification must be mailed to us at the InVision contact address listed at the bottom of this Agreement ("Notice Address"). If you do not notify us in accordance with this Section 9(b), you agree to be bound by the arbitration and class-action waiver provisions of this Agreement, including such provisions in any terms revised after the date of your first acceptance. Such notification must include: (i) your name; (ii) your user name; (iii) your mailing address and (iv) a statement that you do not wish to resolve disputes with us through arbitration. If we make any changes to the Arbitration and Class Action Waiver section of this Agreement (other than a change to the address at which we will receive notices of dispute, opt-out notices, or rejections of future changes to the Arbitration and Clause Action Waiver section), you may reject any such change by sending us written notice within 30 days of the change to the Notice Address. It is not necessary to send us a rejection of a future change to the Arbitration and Class Action Waiver section of this Agreement if you had properly opted out of the arbitration and class-action waiver provisions in this Section 9 within the first 30 days after you first accepted this Agreement. If you have not properly opted out of the arbitration and class-action waiver provisions in this Section 9, by rejecting a future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this arbitration provision, as modified by any changes you did not reject. This notification affects this Agreement only; if you previously entered into other arbitration agreements with us or enter into other such agreements in the future, your notification that you are opting out of the arbitration provision in this Agreement shall not affect the other arbitration agreements between you and us.

- c. **Severability.** If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this Arbitration and Class Action Waiver section will be null and void. This arbitration agreement will survive the termination of your relationship with us.

10. **Miscellaneous**

- a. **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York,

including its conflicts of law rules, and the United States of America. You agree that any dispute arising from or relating to the subject matter of this Agreement shall be resolved in New York County, New York.

- b. **Modification.** We reserve the right, in our sole discretion, to modify or replace any of this Agreement, or cease to make available the Freebies, with or without notice. If we make material changes to this Agreement that negatively affect you we will notify you by posting a notice or new version of this Agreement on our website, and/or by sending you notice via email or by another appropriate means of electronic communication. Your continued use of the Freebies following notification of any changes to this Agreement constitutes acceptance of those changes, which will apply to your continued use of the Freebies going forward. Your use of the Freebies is subject to the version of this Agreement in effect at the time of such use.
- c. **Entire Agreement and Severability.** This Agreement is the entire agreement between you and us with respect to the Freebies, and supersedes all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and us with respect to the Freebies. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. The failure of InVision to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.
- d. **Assignment.** This Agreement is personal to you, and is not assignable, transferable or sublicensable by you except with our prior written consent; provided, however, that you may assign this Agreement without our consent, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of your assets. We may assign, transfer or delegate any of our rights and obligations hereunder without consent.
- e. **Agency.** No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect.

- f. **Notices.** Unless otherwise specified in this Agreement, all notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or email; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Electronic notices should be sent to support@invisionapp.com. You acknowledge and agree that InVision may occasionally send you communications regarding your account or the Freebies via email or by posting on our website.
- g. **No Waiver.** Our failure to enforce any part of this Agreement shall not constitute a waiver of our right to later enforce that or any other part of this Agreement. Waiver of compliance in any particular instance does not mean that we will waive compliance in the future. In order for any waiver of compliance with this Agreement to be binding, we must provide you with written notice of such waiver through one of our authorized representatives.
- h. **Open Source.** The Freebies may contain or be distributed with open source software or other third-party software which may be covered by a different license. Notwithstanding anything to the contrary, the obligations of InVision set forth in this Agreement do not extend to any open source software or such other third-party software which may be made available by InVision, or otherwise obtained or used by you. You agree that all open source software or such other third-party software shall be and shall remain subject to the terms and conditions under which it is provided, and you shall be responsible for compliance with such terms. To the fullest extent possible, InVision disclaims all warranties and liability regarding such open source and third-party software in accordance with the terms of this Agreement.
- i. **Federal Government End Use Provisions.** We provide the Freebies, for ultimate federal government end use solely in accordance with the following: government technical data and software rights related to the Freebies include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR

252.227-7015 (Technical Data Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under this Agreement, it must negotiate with InVision to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

- j. Any claim related to this Agreement or the Freebies must be brought within one year. The one-year period begins on the date when the claim first could be filed. If it is not filed, then that claim is permanently barred. This applies to you and your successors.
- k. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.
- l. You represent and warrant that you are at least 13 years of age. If you are under age 13, you may not, under any circumstances or for any reason, use the Freebies. We may, in our sole discretion, refuse to offer the Freebies to any person or entity and change its eligibility criteria at any time. You are solely responsible for ensuring that this Agreement and your use of the Freebies (a) are in compliance with all laws, rules and regulations applicable to you and (b) do not violate any other agreement to which you are a party. The right to access the Freebies is revoked where this Agreement or use of the Freebies is prohibited or to the extent offering or provision of the Freebies conflicts with any applicable law, rule or regulation.
- m. **Termination.** Should you breach any provision of this Agreement then, in addition to all other rights and remedies which we may have at law and equity, the Agreement will automatically terminate along with your license to the Freebies, effective immediately. All provisions of this Agreement which by their nature should survive termination or expiration shall survive termination, including provisions regarding ownership, warranty disclaimers, indemnity and limitations of liability.
- n. **Prohibited Transactions.** InVision is generally prohibited from providing services to parties located in countries that are the target of U.S.

sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (OFAC) and to parties that are included on U.S. sanctions lists (and in each case, applicable international equivalents thereof), and you represent and warrant that you are not such a party. We reserve the right to refuse transactions (or terminate Accounts) in compliance with sanctions administered by OFAC and its international equivalents.

Contact. You may contact us at the following address: InVisionApp Inc. at support@invisionapp.com or 41 Madison Ave, 25th floor, New York, NY 10010.