

# swatchbook API agreement

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## 1. general and definitions

1.1. your use and access of the swatchbook API is subject to the terms of this swatchbook API agreement (this "agreement"). API means the application program interfaces (including any modification or update to such interfaces) connecting your application with swatchbook services or data and more fully detailed in the developer documentation. this agreement forms a legally binding contract between you and swatchbook in relation to your use of the API. swatchbook may modify, suspend, or discontinue the swatchbook API, at any time and at swatchbook's sole discretion, without prior notice to you.

1.2. "swatchbook services" means the proprietary 3d publishing and sharing platform provided by swatchbook, inc. and any related services or applications, located on the swatchbook website.

1.3. "swatchbook terms of use" means swatchbook's general terms for access and use of the swatchbook services, which are located in the terms page, unless, another agreement executed by and between swatchbook and you or the party you represent explicitly state otherwise, all use of the swatchbook services is governed by the swatchbook terms of use.

"swatchbook" means swatchbook, inc., a california corporation and its affiliates.

## 2. accepting this agreement

2.1. in order to use the API, you must first accept this agreement and comply with all applicable laws and regulations. you may not access or use the API if you do not accept this agreement.

2.2. if you are agreeing to be bound by this agreement on behalf of your employer or other entity, you represent and warrant that you have full legal authority to bind your employer or such entity to this agreement. if you do not have this requisite authority, you may not accept the agreement or use the API on behalf of your employer or other entity.

## 3. API licenses

3.1. subject to this agreement, swatchbook hereby grants you a limited, worldwide, royalty-free, non-assignable and non-exclusive license to use the API solely to develop applications in connection with the swatchbook services as outlined in the developer documentation.

3.2. you agree that swatchbook owns all legal right, title and interest in and to the API, including any intellectual property rights that subsist in the API. "intellectual property rights" means any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary rights. swatchbook reserves all rights not expressly granted to you.

3.3. you may not use the API for any purpose not expressly permitted by this agreement or for any purpose contrary to the developer guidelines.

3.4. you agree that the form and nature of the API that swatchbook provides may change without prior notice to you and that future versions of the API may be incompatible with applications developed on previous versions of the API. you agree that swatchbook may stop (permanently or temporarily) providing the API (or any features within the API) to you or to users generally at swatchbook's sole discretion, without prior notice to you.

3.5. unless otherwise agreed to by the parties, nothing in this agreement gives you a right to use any of swatchbook trade names, trademarks, service marks, logos, domain names, or other distinctive brand features.

#### **4. use of the API by you**

4.1. swatchbook agrees that it obtains no right, title or interest from you (or your licensors) under this agreement in or to any software applications that you integrate using the api, including any intellectual property rights that subsist in those applications.

4.2. you agree to use the API and write applications only for purposes that are permitted by (a) this agreement, (b) the developer documentation, and (c) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions.

4.3. you agree that if you use the API to develop applications for general public or specific users, you will protect the privacy and legal rights of those users. if the users provide you with user names, passwords, or other login information or personal information, you must make the users aware that the information will be available to your application, and you must provide legally adequate privacy notice and protection for those users. if your application stores personal or sensitive information provided by users, it must do so securely.

4.4. you agree that you are solely responsible for (and that swatchbook has no responsibility to you or to any third party for) any breach of your obligations under this agreement, any applicable third party contract or terms of service, or any applicable law or regulation, and for the consequences (including any loss or damage which swatchbook or any third party may suffer) of any such breach.

#### **5. account registration and partner application**

5.1. you agree that you are responsible for maintaining the confidentiality of any API credentials that may be issued to you by swatchbook or which you may choose yourself and that you will be solely responsible for all applications that are developed under your API credentials.

5.2. you agree that your account is governed by the swatchbook terms of use.

#### **6. account requirements**

6.1. you must provide swatchbook with all current, accurate identification, contact, and other information that may be required as part of the registration process and/or continued use of the swatchbook services.

6.2. you agree that you are solely responsible for (and that swatchbook has no responsibility to you or to any third party for) maintaining the confidentiality of your account information and for the consequences (including any loss or damage which swatchbook or any third party may suffer) of any breach of such confidentiality.

#### **7. terminating this agreement**

7.1. this agreement will continue to apply until terminated by either you or swatchbook as set out below.

7.2. if you want to terminate this agreement, you may do so by ceasing your use of the API and any relevant developer credentials.

7.3. swatchbook may at any time, terminate this agreement with you if: (a) you have breached any provision of this agreement; or (b) swatchbook is required to do so by law; or (c) swatchbook decides to no longer provide the API, certain parts of the API, or the swatchbook services; or (d) swatchbook decides to terminate your account.

7.4. in the event of termination, your account will immediately be disabled and you will not be granted access to your account or any files or other content contained in your account.

## **8. disclaimer of warranties**

8.1. you expressly understand and agree that your use of the API is at your sole risk and that the API is provided "as is" and "as available" without warranty of any kind from swatchbook.

8.2. your use of the API and any material downloaded or otherwise obtained through the use of the API is at your own discretion and risk and you are solely responsible for any damage to your computer system or other device or loss of data that results from such use.

8.3. swatchbook 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.

## **9. limitation of liability**

you expressly understand and agree that swatchbook, its subsidiaries and affiliates, and its licensors shall not be liable to you under any theory of liability for any direct, indirect, incidental, special, consequential or exemplary damages that may be incurred by you, including any loss of data, whether or not swatchbook or its representatives have been advised of or should have been aware of the possibility of any such losses arising.

## **10. indemnification**

to the maximum extent permitted by law, you agree to defend, indemnify and hold harmless swatchbook, 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 attorneys' fees) arising out of or accruing from (a) your use of the API, (b) any application you develop on the API that infringes any copyright, trademark, trade secret, trade dress, patent or other intellectual property right of any person or defames any person or violates their rights of publicity or privacy, and (c) any noncompliance by you with this agreement.

## **11. general legal terms**

11.1. this agreement governs your use of the API (excluding any services which swatchbook may provide to you under a separate written agreement), and completely replaces any prior agreements between you and swatchbook in relation to the API.

11.2. you agree that if swatchbook does not exercise or enforce any legal right or remedy which is contained in this agreement (or which swatchbook has the benefit of under any applicable law), this

will not be taken to be a formal waiver of swatchbook's rights and that those rights or remedies will still be available to swatchbook.

11.3. if any court of law, having the jurisdiction to decide on this matter, rules that any provision of this agreement is invalid, then that provision will be removed from this agreement without affecting the rest of this agreement. the remaining provisions of this agreement will continue to be valid and enforceable.

11.4. the rights granted in this agreement may not be assigned or transferred by either you or swatchbook without the prior written approval of the other party. neither you nor swatchbook shall be permitted to delegate their responsibilities or obligations under this agreement without the prior written approval of the other party.

11.5. this agreement, and your relationship with swatchbook under this agreement, shall be governed by the laws of the state of california, usa. you and swatchbook agree to submit to arbitration as set forth in the terms of use for any disputes or claims arising out of this agreement or the use of the API.

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