

## Splitforce Terms of Service

These Terms of Service ("**Terms**") are a legal agreement between you and Splitforce ("**Splitforce**," "**us**," or "**we**") regarding your use of services available at [www.splitforce.com](http://www.splitforce.com), including any information, material, or technology made available by Splitforce via those services (together, the "**Service**").

BY USING ANY PORTION OF THE SERVICE, YOU ARE AGREEING TO BE BOUND BY AND ARE BECOMING A PARTY TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT USE THE SERVICE. If you are using the Service on behalf of your employer or another entity, you represent that you are authorized to accept these Terms on your employer's or that other entity's behalf.

### Beta Program

Splitforce has not fully released the Service, and the Service has not yet been tested like other commercially released services that you may use. Therefore, the Service may contain errors, including errors that may cause the Service or your computer to malfunction or cause a loss of data. Splitforce is not obligated to correct errors, correct the effects of errors (e.g., fix your computer or device or recover lost data), or provide any technical support related to your use of the Service. To help Splitforce prepare the Service for commercial release, Splitforce is providing you with access to the Service so that you can test and evaluate the Service and provide Feedback (as defined below).

### 1. Service Description

The Service is an analytics platform. Registered users of the Service download our software development kit and enable a software application (e.g., a game for a mobile device) to connect to Splitforce's analytics platform ("**Enabled Software**"), and use the analytics platform to track usage of Enabled Software, manage content within Enabled Software, and run split testing within Enabled Software.

### 2. Eligibility

You must be 18 years of age or older to use the Service. You represent and warrant that you are 18 years of age or older and are fully able and competent to enter into, and abide by these Terms. The Service is not intended for those under the age of 18. Use of the Service is void where prohibited.

### 3. Account

In order to use some parts of the Service, you must create an account. When registering for an account, you must provide accurate and complete information and promptly update this information to keep it current. If you provide any information that is inaccurate or incomplete, or we have reason to believe that the information is inaccurate or incomplete, we may suspend or terminate your account and your use of Service.

You are solely responsible for all activities that occur through your account. To protect your account from unauthorized use, do not provide your username or password to anyone else. You will not, directly or indirectly, permit or enable any unauthorized access to your account or any information you obtain via the Service. Please notify us immediately of any unauthorized use of your account or any other breach of security by sending an email to [info@splitforce.com](mailto:info@splitforce.com). You will take all steps reasonably necessary to terminate the unauthorized use. You will cooperate and assist with any actions taken by Splitforce to prevent or terminate unauthorized use of any part of the Service.

### 4. Use of the Service

Subject to the terms and conditions of these Terms, Splitforce grants you a personal, non-exclusive, non-sublicensable, non-transferable, revocable license to access and use the Service, including a reasonable number of copies of any information, materials, or technology made available by Splitforce, solely to integrate a software application that you own with the Service

as Enabled Software, and test that Enabled Software, as documented by Splitforce. **You do not have any right to distribute or otherwise disclose the Enabled Software to any third party.**

## **5. Confidentiality**

Your use of the Service will bring you into contact with confidential, non-public information – such as technical data, proprietary information, know-how or trade secrets – including all information contained in our software development kit that is not publicly available on our website (i.e., other than to registered users) ("**Confidential Information**"). All Confidential Information is the sole and exclusive property of Splitforce and its suppliers. You agree to hold all Confidential Information in strictest confidence and not use it for any purpose other than your use of the Service. You agree to take all necessary precautions to prevent any unauthorized use or disclosure of Confidential Information.

## **6. Testing**

You must thoroughly test any interoperation between your Enabled Software and the Service before any commercial use to ensure that you have complied with these Terms and all applicable Splitforce policies, specifications, protocols, or other documentation, or requirements.

## **7. Restrictions**

You will not make or publish any representation, warranty, guarantee, or commitment on behalf of Splitforce concerning any matter whatsoever.

You must comply with all applicable laws when using the Service and any information you obtain via the Service and you must refrain from any unethical conduct or any other conduct that tends to damage the reputation of Splitforce. Except as expressly enabled by a feature of the Service or documentation made available via the Service, you will not: (a) use or disclose any information, materials, or technology that Splitforce makes available to you except as necessary to perform your obligations or exercise your rights under these Terms; (b) resell, lease, or rent any part of the Service; (c) modify, create derivative works of, reverse engineer, or otherwise improperly use or exploit any part of the Service except to the extent a right cannot be excluded or limited by law and then only when the express permission of Splitforce has been sought and refused; (d) use any part of the Service with any software that is licensed under terms that would require that any part of the Service be disclosed, licensed, distributed, or otherwise made available to anyone; (e) use the Service in a manner that threatens the integrity, performance, or availability of the Service; (f) remove, alter, or obscure any proprietary notices (including copyright notices) on any part of the Service; or (g) use any part of the Service in a way that avoids incurring fees or exceeds usage limits or quotas.

You also agree not to collect or store via the Service or otherwise post, transmit, distribute, or disseminate through the Service any material that: (a) breaches any duty toward or rights of any person or entity; (b) contains corrupted data or any other harmful, disruptive, or destructive files; or (c) in Splitforce's sole judgment, is objectionable, restricts or inhibits any person or entity from using or enjoying any portion of the Service, or which may expose Splitforce, its affiliates, or users to harm or liability of any nature.

## **8. Privacy**

Splitforce collects registration and other information about you through the Service. Our collection and use of this information is described in the Splitforce Privacy Policy, which is incorporated into these Terms and available at <http://www.Splitforce.com/privacy>.

## **9. Data**

In connection with use of the Service, you may collect and store non-personally identifiable information about the activities of end users on your Enabled Software, and demographic information about end users, such as date of birth, gender,

geographic area and preferences (collectively, "**User Data**"). You may not, in connection with use of the Service, collect or store any information that specifically identifies an individual end user of your Enabled Software, such as an end user's name, address, telephone number or e-mail address. You represent and warrant that you will not collect or store – via the Service – information about users other than User Data. You further represent and warrant that for any data you collect via the Service, or otherwise provide for processing or storage by the Service, you have complied with all applicable laws with respect to the collection, transfer, and use of that data in connection with the Service, including without limitation proper disclosure to end users and obtaining all required consents from each individual to transfer that data to us and to our servers associated with the Service, located in the United States or elsewhere, and to permit us to process and store that data as described in these Terms.

You may only use User Data for the purposes of tracking usage of your Enabled Software, managing content within your Enabled Software, and running split testing within Enabled Software. You may not use User Data, or provide User Data to third parties, to develop or enhance profiles of individual users or devices (other than solely for use within your Enabled Software and as otherwise permitted expressly in this Section 9), or to tailor advertisements, content or other aspects of your end users' experience on your Enabled Software or any other software or online environment.

For any data that you collect or store via the Service, you grant us and our subsidiaries, affiliates, and successors a worldwide, non-exclusive, perpetual, royalty-free, fully-paid, transferable, and fully sublicensable right to use that data for the purpose of providing you the Service, for Splitforce's internal business purposes, and to disclose aggregated data to third parties. Aggregated data is information that we collect about a group or category of products, services, or users from which individual identities are removed or that otherwise is not personally identifiable. You retain all rights in your data, subject to the rights granted to Splitforce in these Terms. You may modify or remove your data via your Splitforce account, but Splitforce may, in accordance with Splitforce's Privacy Policy, retain in its systems and use non-personally identifiable data that is derived from your data.

We will use reasonable efforts to keep User Data confidential and secure, but we take no responsibility and assume no liability for any data, including any loss or damage to any of your data.

## **10. Ownership; Trademarks**

We, our affiliates, and our suppliers and licensors own all right, title, and interest, including all intellectual property rights, in and to the Service. Except for those rights expressly granted in these Terms, no other rights are granted, either express or implied, to you.

Splitforce is a trademark. Other product, brand, and company names and logos used on the Service are the trademarks or registered trademarks of their respective owners. Any use of any of the marks appearing on the Service without the prior written consent of Splitforce or the owner of the mark, as appropriate, is strictly prohibited.

## **11. Fees**

As of the date stated above, the Service is provided to you for free, but Splitforce reserves the right to implement fees for the Service at any time by providing you notice. You will pay all applicable fees and other amounts payable in connection with your use of the Service as described in any fee schedule made available by Splitforce, plus all applicable taxes.

**You are solely responsible for all fees charged by third parties related to your use of the Service.**

## **12. Modifications to the Service**

Splitforce reserves the right to modify or discontinue, temporarily or permanently, all or a part of the Service without notice. Splitforce will not be liable to you or to any third party for any modification, suspension, or discontinuance of the Service.

## **13. Feedback**

If you provide feedback to Splitforce regarding the Service ("**Feedback**"), you acknowledge that the Feedback is not confidential and you authorize Splitforce to use that Feedback without restriction and without payment to you. Accordingly, you hereby grant to Splitforce a nonexclusive, royalty-free, fully-paid, perpetual, irrevocable, transferable, and fully sublicensable right to use the Feedback in any manner and for any purpose.

#### **14. Changes to Terms**

We reserve the right to modify these Terms. If we modify these Terms, we will indicate that we have done so on the Splitforce website at <http://www.Splitforce.com/terms> or otherwise provide you notice. It is your responsibility to review these Terms regularly. Use of the Service after the effective date of a modification constitutes your acceptance of any modified Terms.

#### **15. Termination**

You may terminate your use of the Service at any time by terminating your account. Termination of your account is your sole right and remedy with respect to any dispute with Splitforce regarding the Service or these Terms. Splitforce may suspend or terminate your access to the Service, or terminate these terms, at any time, for any reason. If Splitforce suspects that you have violated any provision of these Terms, Splitforce may also seek any other available legal remedy. Your rights under these Terms will terminate automatically if you fail to comply with any of these Terms. Upon termination, you must destroy or delete any copy of Splitforce information, material, or technology in your possession.

You remain solely liable for all obligations related to your use of the Service and your account, even after you have stopped using the Service, including your obligations under Sections 3, 4, 5, 7, 9, 10, 11, 17, 18, and 19. Neither Splitforce nor any of its licensors, suppliers, or publishers are liable to you or to any third party for any loss caused by any termination of the Service or termination of your access to the Service.

#### **16. Third Party Information, Material, and Technology**

Your use of any third party information, materials, or technology made available by Splitforce may be subject to additional or separate license or other terms, requirements, or restrictions as communicated by us.

#### **17. Disclaimer of Warranties**

YOU USE THE SERVICE AT YOUR OWN RISK. THE SERVICE IS PROVIDED ON AN "**AS IS**" AND "**AS AVAILABLE**" BASIS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SPLITFORCE, ITS AFFILIATES, LICENSORS, SUPPLIERS, AND DISTRIBUTORS DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. SPLITFORCE DOES NOT WARRANT UNINTERRUPTED USE OR OPERATION OF THE SERVICE OR THAT ANY INFORMATION, MATERIAL, OR TECHNOLOGY OBTAINED BY YOU VIA THE SERVICE WILL BE ACCURATE, COMPLETE, TRANSMITTED IN UNCORRUPTED FORM, OR TRANSMITTED WITHIN A REASONABLE AMOUNT OF TIME. YOU ARE SOLELY RESPONSIBLE FOR ANY DELAY OR LOSS OF ANY KIND THAT RESULTS FROM YOUR ACCESS OR USE OF THE SERVICE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM SPLITFORCE, THROUGH OR FROM THE SERVICE, WILL CREATE ANY WARRANTY. SOME JURISDICTIONS' LAWS DO NOT ALLOW THE EXCLUSION OF SPECIFIC IMPLIED WARRANTIES, IN WHICH CASE THE DISCLAIMER OF IMPLIED WARRANTIES MAY NOT APPLY TO YOU, TO THAT EXTENT.

#### **18. Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER SPLITFORCE NOR ITS AFFILIATES, LICENSORS, OR SUPPLIERS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES EVEN IF ADVISED OF THE POSSIBILITY OF THESE DAMAGES. SPLITFORCE AND ITS

AFFILIATES, LICENSORS, OR SUPPLIERS WILL NOT BE LIABLE FOR ANY FAILURE OR DELAY TO PERFORM ANY OBLIGATION UNDER THESE TERMS BASED ON REASONS, EVENTS, OR OTHER MATTERS BEYOND THEIR REASONABLE CONTROL. IN ANY EVENT, THE AGGREGATE LIABILITY OF SPLITFORCE AND ITS AFFILIATES, LICENSORS, AND SUPPLIERS UNDER THESE TERMS OR OTHERWISE IN CONNECTION WITH YOUR USE OF THE SERVICE IS LIMITED TO THE GREATER OF \$10 OR THE TOTAL AMOUNT PAID BY YOU TO SPLITFORCE DURING THE SIX MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS UNDER THESE TERMS BETWEEN THE PARTIES. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

### **19. Indemnity**

You will defend and indemnify Splitforce and its affiliates, licensors, and suppliers, and their respective employees, officers, directors, and representatives against all claims, damages, losses, liabilities, taxes, costs, and expenses (including attorneys' fees and other legal expenses) directly or indirectly arising out of or relating to any third party claim concerning your use of the Service (including use by your employees, contractors, or agents), your breach of any provision of these Terms, or any products you offer. You will not assert, authorize, encourage, or participate in any patent infringement or other intellectual property infringement claim against Splitforce or its affiliates.

### **20. Assignment**

You may not sublicense or transfer any of the permissions granted under these Terms or your Splitforce account, without Splitforce's prior written consent. Splitforce may assign these Terms or any of its rights or obligations under these Terms without restriction. Any assignment attempted in violation of these Terms is void.

### **21. Governing Law; Venue**

These Terms will be governed by the laws of the State of Washington, excluding its conflict of law provisions. Each of us consents to the exclusive jurisdiction and venue of the state and federal courts in the State of Delaware for all legal proceedings related to the Service or these Terms.

### **22. Claims**

YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICE MUST COMMENCE WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, THAT CAUSE OF ACTION IS PERMANENTLY BARRED.

### **23. Waiver and Severability of Terms**

The failure of Splitforce to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. Any waiver of any provision of these Terms will be effective only if in writing and signed by Splitforce. If any provision of these Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms remain in full force and effect.

### **24. Consent to Electronic Communications**

By using the Service, you consent to receiving electronic communications from us. These communications may include notices about your account and information concerning or related to the Service. You agree that any notices, agreements,

disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

## **25. Entire Agreement**

These Terms are the entire agreement between you and Splitforce regarding your use of the Service.