

Adobe Commercial Email Terms

These terms apply to third parties (each a "Vendor") who are (a) licensing or selling records containing Personal Information (which is any information that can be used to identify an individual directly or indirectly) such as email addresses or telephone numbers ("Customer List") to Adobe; or (b) sending emails on Adobe's behalf.

A. Customer List Rental or Acquisition:

If Vendor licenses or sells a Customer List to Adobe, Vendor agrees to the following terms:

1. Adobe's Use of Customer List.

- 1.1 Adobe (or its third party email service providers) may use the Customer List for the purpose of carrying out marketing and lead generation activities.
- 1.2 Adobe's use of the Customer List will be in accordance with Adobe's privacy policies located at <http://www.adobe.com/privacy.html>.

2. VENDOR'S OBLIGATIONS

- 2.1 Co-operation. Vendor will provide reasonable assistance (as requested by Adobe) at the Vendor's cost in connection with inquiries or complaints Adobe receives from (a) individuals; or (b) government or regulatory agencies arising from Adobe's use of the Customer List.
- 2.2 CASL Requirements. If the Customer List includes records for Canadian individuals, Vendor will make available to Adobe an unsubscribe mechanism enabling the parties to comply with subsection 10(2) of *An Act to Promote the Efficiency and Adaptability of the Canadian Economy by Regulating Certain Activities that Discourage Reliance on Electronic Means of Carrying out Commercial Activities, and to Amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act* ("**Canada's Anti-Spam Legislation**", or "**CASL**"), and section 5 of the *Electronic Commerce Protection Regulations, SOR/2013-221* (collectively, the "**CASL Unsubscribe Rules**").

B. Sending Emails on Adobe's behalf:

If Vendor will be sending emails on Adobe's behalf, Vendor agrees to the following terms:

1. If Vendor uses a list not generated by Adobe ("Non-Adobe List), Vendor will ensure that the individual records from the Customer List are permanently stored in their original form, in a secure manner, and were collected in a manner that: (a) includes the date and time of the opt-in; (b) includes the identity and contact information of the individual that opted-in; (c) establishes the fact that the affirmative action or statement consenting to receive emails was from the individual who opted-in and that the consent was for the disclosed email use; and (d) allows the data to be retrieved and provided in the above manner to Adobe within seven (7) days from request of same from Adobe.
2. Vendor will ensure the subject line of each email sent in connection with these terms accurately represents the content of the email is not deceptive or misleading and contains all necessary heading labels required by Applicable Laws.

3. Vendor will notify each email recipient of his/her right and option to remove himself/herself from a mailing list in each email sent by Vendor in connection with these terms or as required by law. Vendor will comply with all removal requests as soon as possible but in no event longer than the time prescribed by Applicable Law. Vendor will inform Adobe in writing of each removal request within 10 business days from receipt of the request. If Vendor receives an unsubscribe request from a Canadian recipient, Vendor will provide Adobe or third party list provider (if a Non-Adobe list) with the unsubscribe request (either in writing to Adobe or third party list provider or through the provided mechanism as mutually agreed upon) within seven (7) days.
4. No later than seven (7) days prior to commencing each email campaign (or at such other times as Adobe requests), Vendor will compare the applicable Customer List or Non-Adobe List against Adobe's own most recent relevant list(s) provided by Adobe in order to facilitate elimination of (a) duplicate addresses and (b) addresses of individuals who have opted-out or otherwise requested that they not receive any future emails from Adobe.

C. Vendor Representation and Warranties

Vendor represents and warrants that:

1. Vendor has (A) the power and authority and (B) either full right, title, and interest or all necessary licenses, approvals, permits and consents to enter into and perform its obligations under these terms;
2. Vendor complies with all laws, regulations, rules, guidelines, and codes related to the performance of its obligations under these terms, in particular those pertaining to privacy and data collection, data protection, email marketing, direct marketing, and information security, (collectively the "Applicable Laws");
3. The Customer List or Non-Adobe List conforms to any provided descriptions or requirements, and may be used for the purposes described, whether or not the Customer List or Non-Adobe List content was compiled by Vendor or another party;
4. The individual records contained within the Customer List or Non-Adobe List were collected with affirmative opt-in consent (which has not been subsequently withdrawn) to receive communications, and for their Personal Information to be collected, and used and disclosed by third parties.
5. The individual records in the Customer List or Non-Adobe List were not or will not be collected through:
 - (A) any other means besides those described in these terms;
 - (B) any method other than affirmative, opt-in consents such as through opt-out, data mining, address harvesting or screen-scraping;
 - (C) deceptive or misleading representations at the point of collection or in any privacy policy or similar document; or
 - (D) in a manner contrary to Applicable Law;

6. Vendor will not transmit, disclose, or make available Sensitive Personal Information to Adobe. For purposes of these terms, "Sensitive Personal Information" means an individual's: (i) social security number, or equivalent, taxpayer identification number, passport number, driver's license number or other government-issued identification number; (ii) financial account number, with or without any code or password that would permit access to the account (such as bank account numbers and debit or credit card numbers); (iii) race, religion, ethnicity, medical or health information, background check information, sexual orientation; or (iv) or the meaning given under relevant privacy or data protection laws relating to this term or similar term;
7. Vendor uses commercially reasonable methods to compile, maintain, process and store accurate Information.

D. Vendor Indemnification

1. Vendor will indemnify, hold harmless, and defend Adobe, its affiliates and its and their officers, directors, employees, agents successors and assigns from and against all claims, losses, liabilities, damages, settlements, expenses, and costs (including reasonable attorneys' fees and court costs) arising from any of the following (each a "Claim"):
 - (A) Vendor's material breach of these terms;
 - (B) Material misrepresentations made by Vendor or Vendor's officers, employees, representatives, or agents ("Vendor Personnel");
 - (C) Negligence or willful misconduct by Vendor or Vendor Personnel;
 - (D) Material breach of Applicable Laws (as defined above in Section C-2).
2. Vendor will have no liability to Adobe for modifications made by Adobe to the Customer List (solely to the extent the Claim arises from the modifications) or for Adobe's failure to abide by any opt-out requested by a customer, as recorded in the Customer List after its purchase or licensing to Adobe.
3. Adobe will notify Vendor in writing promptly upon the earlier of learning or receiving notice of Claim. Adobe will provide Vendor will reasonable assistance as requested by Vendor for the defense or settlement (as applicable) of the Claim and provide Vendor with the exclusive right to control and authority to settle the Claim. Adobe may participate in the matter at its own expense.