



ADOBE PDM – ADOBE MEDIA OPTIMIZER: AUDIENCE MANAGEMENT (2013v1)

1. Additional Terms for Adobe Media Optimizer: Audience Management.

1.1. Definitions.

- 1.1.1. **CPM:** means the cost per thousand.
- 1.1.2. **CPMM:** means the cost per million.
- 1.1.3. **Monthly Unique Profile:** means each unique user or visitor of applications and/or websites for whom data has been stored through the OnDemand Services at Customer's request during a calendar month.
- 1.1.4. **OnDemand Service:** the definition in the General Terms is deleted in its entirety and replaced with the following: "**OnDemand Services**" means Adobe Media Optimizer: Audience Management.
- 1.1.5. **Personal Data:** means information that can be used by Adobe to identify or locate a specific natural person, including without limitation, telephone number, e-mail address, and social security number.
- 1.1.6. **Reports:** the definition in the Master Terms, is deleted and replaced in its entirety as follows: "**Reports**" means all graphical or numerical displays of Transmitted Data generated by the OnDemand Service that contain Adobe's proprietary design, look and feel.
- 1.1.7. **Second-Party Data:** means data either collected from Strategic Partner Site(s) via the Distributed Code or transferred/made available to Adobe directly by a Strategic Partner.
- 1.1.8. **Strategic Partner:** means any third party entity that has entered into an agreement with Customer that: (i) authorizes the collection of data from such third party and/or the transfer of such data to Adobe; (ii) authorizes Customer to access and utilize data from such third party in conjunction with the OnDemand Services, including the right to transmit such data to a Targeting Platform in conjunction with the Customer Data; and (iii) incorporates Adobe's required terms and conditions applicable to Customer's Strategic Partners, as set forth below.
- 1.1.9. **Strategic Partner Site(s):** means the current and future website(s) and applications owned and operated by Strategic Partner, including any and all applications and web and mobile pages that may be hosted or operated by a third party on Strategic Partner's behalf that contain Strategic Partner's brand or logo, provided that Strategic Partner creates, maintains, and controls the relevant privacy policy and/or related disclosures displayed or linked from such sites or applications hosted or operated by third parties. Strategic Partner Site(s) also include any other applications or hardware that are owned and operated by Strategic Partner and that contain the Distributed Code.
- 1.1.10. **Targeting Platform:** means any third party entity (e.g., demand-side platform, ad server or content management platform) that has either: (i) entered into an agreement with Customer authorizing Targeting Platform to access and use Customer Data, Second-Party Data and Third-Party Data (as applicable); or (ii) entered into a data access agreement with Adobe to access and use Customer Data, Second-Party Data and Third-Party Data (as applicable).
- 1.1.11. **Third-Party Data:** means data provided by a Third-Party Data Provider.
- 1.1.12. **Third-Party Data Provider:** means any third party entity that has: (i) entered into a data provider agreement with Adobe authorizing Adobe to access and utilize such third party's data on behalf of Adobe's customers, or (ii) entered into an agreement with Customer authorizing Customer to



access and utilize such third party's data in conjunction with the OnDemand Services, including the right to transmit such third party's data to a Targeting Platform in conjunction with the Customer Data, and in either (i) or (ii), such third party's data is transferred directly (e.g., through an API integration) from the Third Party Data Provider to Adobe.

1.1.13. **Transmitted Data:** means any Customer Data, Second-Party Data or Third-Party Data that Adobe receives, displays, transmits or uses in connection with Customer's use of the OnDemand Services.

1.1.14. **User:** means only employees of Customer who are authorized and designated by Customer to access the OnDemand Services using a unique password and login ID, as provided exclusively by Adobe.

1.2 Special Terms.

1.2.1 **Targeting Platform.** Where Customer has entered into an agreement with a third party, Adobe may confirm Customer's agreement either through email or other acknowledgement of Customer (e.g., Customer's designation or request to designate a "destination" for Customer Data) or by confirming with the third party directly. Where Adobe has entered into the agreement with the third party entity, Customer authorizes Adobe to provide the access to third parties to the Customer Data, Second-Party Data and Third-Party Data (as applicable) provided that such third parties are acting on Customer's behalf and have obligations to limit the use and disclosure of such data in connection with the services of such targeting platform. In addition, Customer may choose to purchase licenses to other products of Adobe, in connection with Customer's use of the OnDemand Service, that function as a Targeting Platform (e.g., Adobe AdLens). In such cases, those services of Adobe will be considered a Targeting Platform.

1.2.2. **Users.** Unless otherwise specifically limited in the Sales Order, Adobe will provide User Passwords and Log-in ID's for the OnDemand Services to Customer in an amount mutually agreed upon by Customer and Adobe. Customer acknowledges that each of its Users that access the OnDemand Services will be bound by the terms of use required of each such User upon log-in to the OnDemand Services.

1.2.3. **License.** Section 3.1(ii) (License Grant from Adobe) of the Exhibit for OnDemand Services is hereby deleted and replaced in its entirety as follows: "...(ii) install, implement, and use the Distributed Code solely (a) on the Customer Sites, and (b) on the Strategic Partner Sites for the purposes of tracking and analyzing traffic on the Strategic Partner Sites;..." All references to "Customer Data" in Section 2.3 (License Grant from Customer) of the Exhibit for OnDemand Services shall be deleted and replaced with "Transmitted Data."

1.2.4. **Additional Privacy Terms.** The following sections are added to Section 5 (Privacy) of the Exhibit for OnDemand Services:

- **"5.3 Ad Targeting.** Customer will abide by the DAA Self-Regulatory Principles in connection with its use of the OnDemand Services.
- **5.4 Strategic Partners.** As it relates to Customer's use of OnDemand Services, Customer will ensure that all Strategic Partners are bound by obligations to comply at all times with applicable laws, rules, and regulations, and the DAA Self-Regulatory Principles, including, without limitation, establishing and maintaining a functioning process for visitors to opt out from receiving ads based on their likely interests (or opt-in to receiving such ads, if applicable law requires). Customer will be solely responsible for obtaining the consents from Strategic Partners to set third party cookies (or use similar technologies) on the browsers and machines of visitors where ads based on their likely interests are provided, and for enabling the setting of the cookies (or similar technologies), and/or any other method to set the cookies (or similar technologies) agreed upon by Customer and the Strategic Partners. Customer agrees that Adobe will

have no liability for failure to obtain any consents. Customer is responsible for ensuring and certifying that the privacy statement rendered with cookies (or similar technologies) set by Adobe, by Customer, or by Strategic Partner in connection with Customer's use of the OnDemand Services accurately reflects and is consistent with Customer's data collection practices and its general privacy policy set forth on the Customer Site(s) as well as any applicable third party data collection practices and privacy policies implicated by Customer's use of OnDemand Services. Adobe will not be liable for any inconsistencies or inaccuracies within any privacy statements. Customer will require each Strategic Partner to (i) defend any claim or lawsuit by a third party against Adobe and its third party service providers (a) that Strategic Partner's actions in connection with the Distributed Code violate the Strategic Partner's privacy policy or any third party's rights of privacy, or violate any privacy laws, and/or (b) arising from or relating to Second Party Data; and (ii) indemnify Adobe (and its directors, employees and agents) against all damages awarded against Adobe or agreed to in a written settlement agreement signed by the Strategic Partner arising out of the claim.

- **5.5 Personal Data.** Customer represents and warrants that both Customer and Customer's Strategic Partners will not transmit, provide or otherwise make available to Adobe Personal Data. Customer further represents that Strategic Partners do not derive Personal Data by, for example, any linking of, or cross-comparison, of the Transmitted Data with other data that the Targeting Platform may possess or acquire from third party sources. Customer acknowledges that it will not modify, or cause to be modified, the characterization or categorization of the Transmitted Data in any manner that would result in the transfer of Personal Data."

1.2.5. **Transferring Transmitted Data.** Upon request by Customer, Adobe agrees to transmit specified Transmitted Data to a Targeting Platform on behalf of Customer. Customer agrees that it is solely responsible for ensuring that any usage or combination of the Transmitted Data (by Customer, the Targeting Platform, or other third parties) complies with Customer's obligations under the Agreement, all applicable laws and government regulations, and established industry best practices for data usage and privacy, such as the DAA Self-Regulatory Principles. Adobe's transfer of Transmitted Data to a Targeting Platform will not be construed as a grant to the third party Targeting Platform of the right to access Adobe's online reporting interface or tools, or to receive reports generated by Customer within Adobe's online reporting interface or tools. In addition, if the Transmitted Data is modified or combined with other data, and subsequently transferred back to Adobe for use in connection with Adobe's products and services, Customer expressly authorizes such transfer, and such data shall be deemed Customer Data under the Agreement (except to the extent it contains data supplied by third party data suppliers under Section (i) of the definition of Third Party Data Provider). Customer acknowledges that Adobe does not control, or have responsibility for, either the usage of the Transmitted Data by the Targeting Platform or for the Targeting Platform's combination of the Transmitted Data with any other data or modification thereof.

1.2.7. **Indemnity.** Customer will defend and indemnify Adobe (and its directors, employees, and agents) against all claims, lawsuits, liabilities, damages, and costs (including reasonable attorney's fees) awarded against Adobe or agreed to in a written settlement agreement signed by Customer, arising out of a claim that Customer's actions, a Strategic Partner's actions, a Third-Party Data Provider's actions or a Targeting Platform's action, arising from or related to the use, display, exchange or transfer of Transmitted Data between and among Strategic Partners, Third-Party Data Providers or Targeting Platforms and Adobe, violate Customer's privacy policy, any third party's rights in confidential information, trade secret or other intellectual property right, or rights of privacy, or violate any privacy or other laws.

2. **Adobe Media Optimizer: Audience Management Product and Service Descriptions.**

2.1. **Adobe Media Optimizer: Audience Management.** Adobe Media Optimizer: Audience Management is not included in Adobe Media Optimizer Premium or Adobe Media Optimizer Standard. It is an add-on to Adobe Media Optimizer Premium. Adobe Media Optimizer: Audience Management is a service and user interface for managing digitally addressable consumer data. The service allows Customer to aggregate various data sources and combine common traits of users in order to define high value audience segments that can then be applied to applicable use cases – such as unifying users across all touch points, look alike modeling, ad targeting or content targeting for site side optimization. Adobe Media Optimizer: Audience Management may only be used in conjunction with Adobe Media Optimizer Premium.

3. **Support.** Any valid User or network operations personnel of Customer will have access to product technical support for the OnDemand Services by contacting Customer’s account manager via email address or phone during normal business hours, which are 9am – 6pm Customer’s local time.

Third Party Software Notices. In order to accommodate public demand for software that is interoperable with other products and platforms, Adobe, like other commercial software publishers, has designed its products to comply with public standards, and has incorporated code created and licensed by third parties, into its products. The creators of these public standards and publicly available code, as well as other third party licensors, require that certain notices and terms and conditions be passed through to the end users of the software. Such required third party software notices and/or additional terms and conditions are located at www.adobe.com/products/eula/third_party/index.html (or a successor website thereto) and are made a part of and incorporated by reference into this Agreement. Customer acknowledges and agrees that Adobe’s licensors (and/or Adobe if Licensee obtained the Software from any party other than Adobe) are third party beneficiaries of this Agreement, with the right to enforce the obligations set forth herein with respect to the respective technology of such licensors and/or Adobe.