



## **1. INTRODUCTION**

1.1 **Agreement and Order of Precedence.** A reference to “**Agreement**” means:

- (A) the Enterprise Licensing Terms, consisting of:
  - (1) these General Terms;
  - (2) the applicable exhibits; and
  - (3) the applicable Product Descriptions and Metrics; and
- (B) the Sales Order.

If there is any inconsistency between any of the above parts, the part listed later will prevail (to the extent of the inconsistency) over a part listed earlier.

1.2 **Definitions**

Definitions used in this Agreement are set out in Schedule A to these General Terms.

1.3 **Interpretation**

In this Agreement, unless otherwise stated:

- (A) A reference to:
  - (1) a person includes a natural person, partnership, joint venture, government agency, association, corporation, or other body corporate;
  - (2) a party includes its successors and permitted assigns;
  - (3) the singular includes the plural and vice versa;
  - (4) a document or instrument includes the document or instrument as novated, amended, altered, supplemented, or replaced from time to time;
  - (5) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, or rule of common law or equity, and is a reference to that law as amended, consolidated or replaced;
  - (6) the words “such as”, “including”, “particularly”, “for example” and similar are not to be interpreted as words of limitation;
  - (7) an agreement, representation, warranty, or indemnity on the part of two or more persons binds them jointly and severally;
  - (8) an agreement, representation, warranty, or indemnity in favour of two or more persons is for the benefit of them jointly and severally; and
  - (9) a gender includes all genders.
- (B) Other grammatical forms of a defined word or phrase have a corresponding meaning;
- (C) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of it; and
- (D) All headings are for ease of reference only and not intended to affect meaning or interpretation.

## **2. PAYMENT OF FEES**

This clause 2 (Payment of Fees) applies only if Customer orders the Products and Services directly from Adobe. If Customer orders the Products and Services from an Adobe Partner, the payment terms are as agreed between Customer and the Adobe Partner.

- 2.1 **Payment.** Customer must pay the fees according to the payment terms in the Sales Order. All payments must be made by electronic transfer according to the remit instructions on the invoice. All invoices will only be delivered electronically to Customer. Customer must bear all bank charges for the payments. Adobe may charge interest at a monthly rate equal to the lesser of 1% per month or the maximum rate permitted by applicable law on any overdue fees, from the due date until the date the overdue amount (plus applicable interest) is paid in full. Any fees that are unpaid as of the date of termination or expiry will be immediately due and payable. Customer must provide a detailed remittance advice with each payment to Adobe via email to [bvar@adobe.com](mailto:bvar@adobe.com) no later than the date of the payment. If Customer is not a publicly-traded corporation, upon Adobe's request, Customer will provide the necessary financial documents to allow Adobe to ascertain the credit-worthiness of Customer.
- 2.2 **Failure to Pay.** If Customer fails to pay any amount due under this Agreement, Adobe will send Customer a reminder notice. If Customer fails to pay within 15 days of the date of the reminder notice of Customer's failure to pay, Adobe may, in its sole discretion, terminate this Agreement or the applicable Sales Order or suspend or restrict provision of the Products and Services.
- 2.3 **Disputes.** If Customer believes in good faith that Adobe has incorrectly billed Customer, Customer must contact Adobe in writing within 30 days of the invoice date, specifying the error. Unless Customer has correctly notified Adobe of the dispute, Customer must reimburse Adobe's reasonable collection costs. Customer must pay the undisputed portions of Adobe's invoice as required by this Agreement.
- 2.4 **Taxes.**
- (A) Prices do not include applicable taxes.
  - (B) The following applies only if Customer orders the Products and Services directly from Adobe:
    - (1) If Customer is located in India, Philippines, Vietnam, Indonesia, or Thailand, Customer must self-assess and remit any applicable services tax or value added tax to the appropriate tax authority.
    - (2) If Customer is located in any other country, Adobe will invoice Customer for any applicable taxes, and Customer must pay these taxes. Where applicable, Customer must provide a tax-exemption claim to Adobe before placing an order.
    - (3) If Customer is required to withhold income taxes from its payment to Adobe, Customer agrees to send Adobe an official tax receipt within 60 days of payment to Adobe. All withholding tax receipts must be emailed in a PDF format to Adobe Systems Software Ireland Limited at [credit-sg@adobe.com](mailto:credit-sg@adobe.com), and the original certificate mailed to Adobe: Attention Credit Department, Adobe Systems Software Ireland Limited, 8 Temasek Boulevard, Suntec Tower 3 #06-02, Singapore 038988.

### 3. DELIVERY

On-premise Software is deemed to be delivered and accepted by Customer on the earlier of the date the On-premise Software is made available for electronic download or, if applicable, the date that Adobe delivers the tangible media (e.g., CD or DVD) containing the On-premise Software FCA (Adobe's warehouse) (INCOTERMS 2010). On-demand Services and Managed Services are deemed to be delivered and accepted on the Licence Term start date.

### 4. OUTSOURCING AND THIRD-PARTY ACCESS

- 4.1 **Use by Affiliates.** Customer may allow its Affiliates to use and access the Products and Services, only if, and as specified in, a Sales Order.
- 4.2 **Outsourcing and Third-Party Access.** Customer may allow a third-party contractor to use and access the Products and Services solely to operate the Products and Services on Customer's behalf, but only if:
- (A) upon Adobe's request, Customer provides Adobe with the identity of the contractor and the purpose for the contractor's use or access to the Products and Services; and
  - (B) the use or access by the contractor is only for Customer's internal operations.
- 4.3 **Customer Responsibility.** If Customer allows any person or entity to use or access the Products and Services, including under clauses 4.1 (Use by Affiliates) or 4.2 (Outsourcing and Third-Party Access):

- (A) Customer must ensure that the person agrees to comply with and does comply with the terms of this Agreement on the same basis as the terms apply to Customer; and
  - (B) Customer is responsible for all acts and omissions of the person.
- 4.4 **No Additional Rights.** For clarity, the rights granted under this clause 4 (Outsourcing and Third-Party Access) do not modify the Licence Metric or increase the number of licences granted under this Agreement.

## 5. CONFIDENTIALITY

- 5.1 **No Use or Disclosure.** Recipient will only use Confidential Information for the purposes of this Agreement and will not reproduce, disseminate, or disclose Confidential Information to any person, except to its employees and authorized representatives (i.e., temporary employees, consultants, and contractors) who need to know the Confidential Information for the purposes of this Agreement and are bound by confidentiality obligations at least as restrictive as those in this clause 5 (Confidentiality). Recipient will treat all Confidential Information with at least the same degree of care as it treats its own information of similar sensitivity, but never with less than reasonable care.
- 5.2 **Required Disclosure.** Recipient may disclose Confidential Information:
- (A) as approved in a writing signed by Discloser;
  - (B) as necessary to comply with any law or valid order of a court or other governmental body; or
  - (C) as necessary to establish the rights of either Party,
- but only if, in the case of clause 5.2(B) and clause 5.2(C), Recipient (1) promptly notifies Discloser of the details of the required disclosure; and (2) gives Discloser all assistance reasonably required by Discloser to enable Discloser to take available steps to prevent the disclosure or to ensure that disclosure occurs subject to an appropriate obligation of confidence.
- 5.3 **Responsibility for Representatives and Affiliates.** Recipient is responsible for ensuring that its representatives and Affiliates fully comply with the obligations of the Recipient under this clause 5 (Confidentiality).

## 6. TERM AND TERMINATION

### 6.1 Term

This Agreement applies to each Product and Service from the Effective Date until the expiry of the applicable Licence Term or the term for Professional Services, unless terminated earlier under this Agreement.

### 6.2 Termination for Cause

- (A) **Material Breach by Either Party.** If either Party commits a material breach of this Agreement, the non-breaching Party may give written notice describing the nature and basis of the breach to the breaching Party. If the breach is not cured within 30 days of the notice date, the non-breaching Party may immediately terminate this Agreement, in whole or in part.
- (B) **Breach of Confidentiality Provisions.** If a Party is in breach of any confidentiality provisions of this Agreement, the non-breaching Party may terminate this Agreement, in whole or in part, immediately by giving the breaching Party written notice of the breach.
- (C) **Insolvency.** A Party may terminate this Agreement immediately upon notice to the other Party if the latter is subject to any of the following events (or events like or analogous to the following): (1) insolvency; (2) any form of voluntary or involuntary insolvency administration or liquidation; (3) entering into a scheme or voluntary arrangement with its creditors for partial discharge of indebtedness; or (4) disbanded or dissolved under regulatory action or decree.
- (D) **Other Breaches.** Adobe may terminate this Agreement, in whole or in part, immediately upon written notice to Customer: (1) if required by law; or (2) if Customer breaches clause 7.2 (No Modifications) of these General Terms.

### 6.3 Survival

The termination or expiry of this Agreement will not affect any provisions of this Agreement which by their nature survive termination or expiry, including the provisions that deal with the following subject matters: definitions, payment obligations, confidentiality, term and termination, effect of termination, intellectual property, licence compliance, limitation of liability, privacy, content monitoring, and the “General Provisions” clause in these General Terms.

## 7. INTELLECTUAL PROPERTY

- 7.1 **Ownership.** Adobe and its licensors own the Adobe Technology.
- 7.2 **No Modifications.** Customer must not modify, create derivative works of, adapt, translate, reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code in, any Adobe Technology. These restrictions will not apply to the extent they limit any Non-Excludable Provision.

## 8. INDEMNIFICATION

- 8.1 **Adobe’s Duty to Indemnify.** Adobe will defend any third-party Claim against Customer during the Licence Term to the extent the Claim alleges that (A) the Indemnified Technology directly infringes the third party’s patent, copyright, or trade mark; or that (B) Adobe has misappropriated the third party’s trade secret (“**Infringement Claim**”). Adobe will pay Customer the Losses that are directly attributable to an Infringement Claim and are either finally awarded by a court of competent jurisdiction against Customer or agreed to in a written settlement agreement signed by Adobe.
- 8.2 **Adobe’s Response.** In the defence or settlement of any Infringement Claim, Adobe may, at its sole option and expense:
- (A) procure for Customer a licence to continue using the Indemnified Technology under the terms of this Agreement;
  - (B) replace or modify the allegedly infringing Indemnified Technology to avoid the infringement; or
  - (C) terminate Customer’s licence and access to the Indemnified Technology (or its infringing part) and refund:
    - (1) in the case of On-demand Services or On-premise Software licensed for a limited term, any prepaid unused fees as of the date of termination; or
    - (2) in the case of On-premise Software licensed for a perpetual term, an amount equal to the pro-rata value of the On-premise Software, calculated by depreciating the fee paid by Customer for the On-premise Software on a straight-line basis using a useful life of 36 months from the date of initial delivery of the On-premise Software,but only if Customer purges all copies of the On-premise Software (and any related materials) from all computer systems on which it was stored and returns to Adobe all physical copies of the On-premise Software and related materials.
- 8.3 **Conditions to Indemnification.** Adobe will have no liability for any Infringement Claim:
- (A) that arises from any:
    - (1) use of the Indemnified Technology in violation of this Agreement;
    - (2) modification of the Indemnified Technology by anyone other than Adobe or a party authorized in writing by Adobe to modify specific code within the Indemnified Technology;
    - (3) failure by Customer to install the latest updated version of the Indemnified Technology as requested by Adobe to avoid infringement; or
    - (4) third-party products, services, hardware, software, or other materials, or combination of these with Indemnified Technology if the Indemnified Technology would not be infringing without this combination; or
  - (B) if Customer fails to:
    - (1) notify Adobe in writing of the Infringement Claim promptly upon the earlier of learning of or receiving a notice of it, to the extent that Adobe is prejudiced by this failure;

- (2) provide Adobe with reasonable assistance requested by Adobe for the defence or settlement (as applicable) of the Infringement Claim;
- (3) provide Adobe with the exclusive right to control and the authority to settle the Infringement Claim; or
- (4) refrain from making admissions about the Infringement Claim without Adobe's prior written consent.

8.4 **Sole and Exclusive Remedy.** The remedies in this clause 8 (Indemnification) are Customer's sole and exclusive remedies and Adobe's sole liability regarding the subject matter giving rise to any Claim that the Products and Services infringe or misappropriate any third party's intellectual property rights.

## 9. LIMITATION OF LIABILITY

### 9.1 Limitation of Damages

- (A) Subject to clause 9.1(D) and to the maximum extent permitted by law, in no event is either Party liable for any of the following arising out of or concerning this Agreement, however caused (including, without limitation, by a Party's negligence): loss of revenue; loss of actual or anticipated profits (including loss of profits on contracts); loss of the use of money; loss of anticipated savings; loss of business; loss of operating time or loss of use; loss of opportunity; loss of goodwill, loss of reputation; loss of, damage to or corruption of data; any indirect or consequential damages; or any damages not arising naturally and according to the usual course of things from the relevant breach, whether or not such loss may reasonably be supposed to have been in the contemplation of both Parties, at the time they made the contract, as the probable result of the relevant breach.
- (B) Subject to clause 9.1(D) and to the maximum extent permitted by law, the maximum aggregate liability of each Party for each and all Claims (individually and together) under or relating to this Agreement or its subject matter is limited to an amount equal to the aggregate of the fees that must be paid by Customer under this Agreement during the 12 months before the initial Claim.
- (C) Clauses 9.1(A) and 9.1(B) (Limitation of Liability) of these General Terms:
  - (1) apply regardless of the form or source of Claim or Loss, whether the Claim or Loss was foreseeable, and whether a Party has been advised of the possibility of the Claim or Loss; and
  - (2) do not apply in any breach of any confidentiality provisions of this Agreement, Customer's use of Adobe Technology beyond the scope of any licence granted under this Agreement, or Customer's failure to pay any amounts owing to Adobe under this Agreement.
- (D) Nothing in this Agreement will limit or exclude either Party's liability for: (1) death or personal injury resulting from a Party's negligence; (2) fraudulent misrepresentation; or (3) loss or damage for which liability cannot be excluded or limited by law.

9.2 **Implied Warranties.** To the maximum extent permitted by law and except for the express warranties in this Agreement and any Non-Excludable Provisions, Adobe provides the Products and Services on an "as-is" basis. Adobe, its Affiliates, and third-party providers disclaim and make no other representation, promise, assurance, undertaking or warranty of any kind, express, implied or statutory, including representations, guarantees, conditions or warranties of merchantability, satisfactory quality, fitness for a particular purpose, title, non-infringement, or accuracy. Customer acknowledges that (A) neither Adobe, its Affiliates nor its third party providers controls Customer equipment or the transfer of data over communications facilities (including the Internet); (B) the Products and Services may be subject to limitations, interruptions, delays, cancellations, and other problems inherent in the use of the communications facilities (including search engines and social media channels); and (C) it is fully responsible to install appropriate security updates and patches. Adobe, its Affiliates, and its third party providers are not responsible for any interruptions, delays, cancellations, delivery failures, data loss, content corruption, packet loss, or other damage resulting from these problems.

9.3 **Non-Excludable Provisions.** Nothing in this Agreement excludes, restricts, or modifies any right or remedy, or any guarantee, warranty, or other term or condition, implied or imposed by any law which cannot lawfully be excluded or limited. This may include any consumer law which contains guarantees that protect the purchasers of goods and services in certain circumstances. If any guarantee, warranty, term, or condition is implied or imposed concerning this Agreement under any consumer law or any other applicable law and cannot be excluded (a "**Non-Excludable Provision**"), and Adobe is able to limit

Customer's remedy for a breach of the Non-Excludable Provision, then the liability of Adobe for breach of the Non-Excludable Provision is limited to one or more of the following, at Adobe's option:

- (A) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or
- (B) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

9.4 **Proportionate Liability.** The liability of a Party for any Loss suffered or incurred by the other Party under this Agreement (including under any indemnity) will be reduced proportionately to the extent that any wrongful (including negligent) act or omission of the other Party or its personnel directly caused or contributed to the Loss.

## 10. LICENCE COMPLIANCE

10.1 Adobe may, at its expense and no more than once every 12 months, appoint its own personnel or an independent third party (or both) to verify that Customer's use, installation, or deployment of the Products and Services (or other Adobe Technology used in conjunction with the Products and Services) comply with the terms of this Agreement.

10.2 For On-premise Software and any Distributed Code, the verification will require Customer to provide within 30 days of request (A) raw data from a software asset management tool of all On-premise Software and Distributed Code installed or deployed by or at the direction of Customer, including installation or deployment on servers owned by Customer or provided by third parties; (B) all valid purchase documentation for all On-premise Software and Distributed Code; and (C) any information reasonably requested by Adobe.

10.3 Any verification may include an onsite audit conducted at Customer's relevant places of business upon 7 days' prior notice, during regular business hours, and will not unreasonably interfere with Customer's business activities.

10.4 If the verification shows that Customer, its Affiliates or third-party contractors of Customer or its Affiliates are deploying, installing or using the Products and Services (or other Adobe Technology used in conjunction with the Products and Services) (A) beyond the quantity that was legitimately licensed; or (B) in any way not permitted under this Agreement, so that additional fees apply, Customer must pay the additional licence fees and any applicable related maintenance and support fees within 30 days of invoice date. If use, deployment, or installation exceeds 5% of that which is permitted under this Agreement, Customer must pay Adobe's reasonable costs of conducting the verification, in addition to paying the additional fees.

## 11. GENERAL PROVISIONS

11.1 **Assignment.** A party may only assign or novate this Agreement, or otherwise deal with the benefit of it or a right under it, or purport to do so, with the prior written consent of the other party (this consent not to be unreasonably withheld), except that:

- (A) Customer may, upon written notice to Adobe, assign or novate its rights and obligations under this Agreement in connection with a solvent reconstruction, rearrangement, amalgamation, or reorganisation of Customer or Customer's business, but only if the assignment or novation does not expand the scope of the licence granted in the Products and Services.
- (B) Adobe may, upon written notice to Customer, assign or novate its rights and obligations under this Agreement in connection with a solvent reconstruction, rearrangement, amalgamation or reorganization of Adobe or Adobe's business, or to any Affiliate of Adobe, or in connection with a sale or transfer of all or any part of its business.

11.2 **Governing Law, Venue.**

- (A) If Customer is resident in Australia or New Zealand, this Agreement is governed by and construed under the laws of the state of New South Wales, Australia without regard to its conflict of laws principles. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts in that state.

- (B) If Customer is resident in any other country, including a member state of the Association of Southeast Asian Nations (ASEAN), mainland China, Hong Kong S.A.R., Macau S.A.R., Taiwan R.O.C., the Republic of Korea, India, Sri Lanka, Bangladesh, or Nepal:
- (1) This Agreement (including the arbitration agreement contained in this clause 11.2(B)) is governed by and construed under the laws of Singapore, without regard to its conflict of laws principles. Except as expressly set out in this Agreement, nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement under the Contract (Rights of Third Parties) Act.
  - (2) Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity, or termination, must be referred to and finally resolved by arbitration in Singapore under the Rules of Arbitration of the Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this clause 11.2(B).
  - (3) There will be one arbitrator, selected jointly by the Parties. If the arbitrator is not selected within 30 days of the written demand by a Party to submit to arbitration, the Chairman of the SIAC will make the selection.
  - (4) The arbitration will be conducted in the English language, but any witness whose native language is not English may give testimony in the witness's native language, with simultaneous translation into English (at the expense of the Party presenting the witness).
  - (5) Judgment upon the award rendered may be entered and will be enforceable in any court of competent jurisdiction having jurisdiction over the Parties.
- (C) If disputes arising out of or in connection with this Agreement are to be referred to arbitration at the same time as disputes arising out of or in connection with other agreements between the Parties or between Adobe and Customer's affiliates, which other agreements contain an arbitration clause similar to clause 11.2(B) above, the Parties will enter into an agreement (that includes Customer's affiliates, where applicable) to submit all of these disputes to a single arbitration proceeding in Singapore before a single arbitrator under the Rules of Arbitration of the Singapore International Arbitration Centre.
- (D) The United Nations Convention on Contracts for the International Sale of Goods does not apply.
- 11.3 **Force Majeure.** Neither Party is liable for failure to perform its obligations under this Agreement (except for any payment obligations) to the extent that performance is delayed, prevented, restricted or interfered with as a result of any causes beyond its reasonable control, including acts of God, terrorism, labour action, fire, flood, earthquake, failure of third-party providers, denial of service attacks and other malicious conduct, utility failures, power outages, or governmental acts, orders, or restrictions.
- 11.4 **Provisional Remedies.** Actual or threatened breach of this Agreement may cause immediate or irreparable harm that is difficult to calculate and cannot be remedied by the payment of damages alone. Notwithstanding any provision in this Agreement, either Party to this Agreement may request any judicial, administrative, or other authority in any jurisdiction to order any provisional or conservatory measure, including injunctive relief, specific performance, or other equitable relief, before the institution of or during legal or arbitration proceedings, for the preservation of its rights and interests or to enforce specific terms that are suitable for provisional remedies.
- 11.5 **Notices.** Any notice given under this Agreement must be in writing by email to the following addresses (or addresses notified in writing by either Party): (A) to Adobe: [ContractNotifications@adobe.com](mailto:ContractNotifications@adobe.com); and (B) to Customer: at Customer's email address stated on the Sales Order, or if Customer's Sales Order is with an Adobe Partner, at Customer's registered address. A notice is taken to have been received by email 3 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered.
- 11.6 **No Agency.** Nothing in this Agreement is intended to constitute a fiduciary relationship, agency, joint venture, partnership, or trust between the Parties. No Party has authority to bind the other Party.
- 11.7 **Third-Party Beneficiaries.** Customer acknowledges and agrees that Adobe's licensors are third-party beneficiaries of this Agreement, with the right to enforce the obligations in this Agreement directly against Customer.

- 11.8 **Customer's Purchase Order.** Any terms or conditions in Customer's purchase order or any other related documentation submitted by or on behalf of Customer to Adobe (or any other party, such as an Adobe Partner) do not form part of this Agreement and are void, unless otherwise expressly agreed in writing and signed by both Customer and Adobe.
- 11.9 **Waiver, Modification.** Neither Party's waiver of the breach of any provision constitutes a waiver of that provision in any other instance. This Agreement may not be modified nor any rights under it waived, in whole or in part, except in writing signed by the Parties.
- 11.10 **Entire Agreement.** This Agreement contains the entire understanding of the Parties relating to the subject matter and supersedes all earlier agreements, understandings, proposals, discussions, negotiations, representations and warranties, both written and oral, regarding the subject matter. Each Party acknowledges to the other that it has not been induced to enter into this Agreement by, nor has it relied upon, any representation, promise, assurance, warranty or undertaking (whether in writing or not) by or on behalf of, the other Party or any other person, save for those contained in this Agreement. Accordingly, to the extent permitted by law, each of the Parties acknowledges and agrees that (save in relation to fraudulent misrepresentations) the only remedy available to it in respect of the subject matter of this Agreement will be for breach of contract under the terms of this Agreement and it will have no right of action against any other Party in respect of any other representation, promise, assurance, warranty or undertaking.
- 11.11 **Counterpart.** This Agreement (or a component) may be executed in one or more counterparts, each of which constitutes an original and all of which taken together constitutes the same agreement. Each Party may sign this Agreement using an electronic or handwritten signature, which are of equal effect, whether on original or electronic copies.
- 11.12 **Severability.** If any term of this Agreement is held invalid or unenforceable for any reason, the remainder of the term and this Agreement will continue in full force and effect.
- 11.13 **Trade Rules.** Customer acknowledges that the Products and Services may be subject to the trade control laws and regulations of the United States and other national governments, and Customer will comply with them.
- 11.14 **Adobe Partner Transactions.** If Customer orders Products and Services from an Adobe Partner under a Sales Order with the Adobe Partner ("**Partner Sales Order**"), notwithstanding anything to the contrary: (A) the terms of this Agreement apply to Customer's use of the Products and Services; (B) the Enterprise Licensing Terms (or any part of it) prevails over any inconsistent provisions in the Partner Sales Order; and (C) the Adobe Partner is solely responsible for any variations or inconsistencies between the Partner Sales Order and the order between the Adobe Partner and Adobe for the transaction. If Customer does not accept the terms of this Agreement, then Customer must not use or must immediately cease using the relevant Products and Services.
- 11.15 **Language.** This Agreement is prepared and is executed in the English language only. If any courtesy translation of this Agreement is made available to Customer, the English language version will prevail in all respects, and the courtesy translation will not be binding and will have no effect. If there is any conflict or inconsistency between the English language version of this Agreement and any courtesy translation, the English language version and interpretation will prevail.

## SCHEDULE A TO GENERAL TERMS: DEFINITIONS

1. **“Adobe”** means one or both of the following:
  - 1.1 If the Products and Services are licensed in the United States, Canada, Mexico, United States territories and possessions, and United States military bases wherever located:

Adobe Systems Incorporated (a Delaware corporation, of 345 Park Avenue, San Jose, California 95110, USA).
  - 1.2 If the Products and Services are licensed in all other countries:

Adobe Systems Software Ireland Limited (an Irish company, of 4-6 Riverwalk, Citywest Business Campus, Dublin 24, Ireland).
2. **“Adobe Partner”** means a person that is appointed by Adobe to process orders from end users, or a reseller of Products and Services to end users.
3. **“Adobe Technology”** means technology owned by Adobe or licensed to Adobe by a third party (including the Products and Services, Reports, software tools, algorithms, software (in source and object forms), user interface designs, architecture, toolkits, plug-ins, objects and Documentation, network designs, processes, know-how, methodologies, trade secrets, and any related intellectual property rights throughout the world), and suggestions made to Adobe that are incorporated into any of the foregoing (which will be deemed assigned to Adobe), as well as any of the derivatives, modifications, improvements, enhancements, or extensions of the above, whenever developed.
4. **“Affiliate”** means, for a Party, any other person that controls, is controlled by or under common control with the Party. For the purposes of this definition, the term “control” means the direct or indirect power to direct the affairs of the other person through at least 50% of the shares, voting rights, participation, or economic interest in this person.
5. **“Claim”** means a claim, action or legal proceeding made against a person, however arising (including, without limitation, for negligence) and whether present or future, fixed or unascertained, actual, threatened or contingent.
6. **“Computer”** means a virtual or physical device that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions, consistent with the configuration recommendations in the Documentation, including servers, desktop computers, laptops, tablets, mobile devices, telecommunication devices, Internet-connected devices, and hardware products capable of operating a wide variety of productivity, entertainment, or software applications. Where a Computer contains more than one virtual environment (including virtual machines and virtual processors), each virtual environment will be counted as a separate Computer.
7. **“Confidential Information”**:
  - 7.1 means a Discloser’s or Discloser’s Affiliates’ non-public information (including copies, summaries, and extracts): (A) that is identified in writing as confidential at the time of disclosure, whether in printed, textual, graphic, or electronic form; or (B) that is disclosed in non-tangible form, identified as confidential at the time of disclosure, summarized in a writing labelled as “confidential”, and delivered to Recipient or Recipient’s Affiliate (as applicable) within 15 days after disclosure. The Party disclosing Confidential Information is referred to as “Discloser” and the Party receiving Confidential Information is referred to as “Recipient”; and
  - 7.2 Confidential Information does not include information that:
    - (A) is or becomes generally publicly available at or after the time of disclosure through no fault of either Recipient or Recipient’s Affiliate;
    - (B) was known to Recipient or Recipient’s Affiliate (as applicable), free of any confidentiality obligations, before its disclosure by either Discloser or Discloser’s Affiliate;
    - (C) becomes known to Recipient or Recipient’s Affiliate (as applicable), free of any confidentiality obligations, from a source other than either Discloser or Discloser’s Affiliate; or
    - (D) is independently developed by either Recipient or Recipient’s Affiliate without use of Confidential Information.

8. **“Customer”** means the person identified in the Sales Order as “Customer” or otherwise identified in the Sales Order as the end user customer.
9. **“Development Software”** means On-premise Software licensed for use in a non-production, technical environment solely for internal development and testing authorized under the PDM.
10. **“Distributed Code”** means HTML tags, JavaScript code, object code, plugins, SDKs, APIs, or other code provided by Adobe for use of the On-demand Services or Managed Services.
11. **“Documentation”** means: (A) for On-premise Software, the technical user manual describing the features and functionalities of the applicable On-premise Software, as provided by Adobe and generally available in PDF format in the software or via [www.adobe.com](http://www.adobe.com); and (B) for On-premise Software that does not have a technical user manual, Managed Services or On-demand Services, the description of the software or service contained in the PDM applicable to the service or software. “Documentation” does not include any forum or content contributed by any third party.
12. **“Effective Date”** means the effective date stated in the Sales Order.
13. **“Enterprise Licensing Terms”** is described in clause 1.1 of these General Terms.
14. **“Evaluation Software”** means On-premise Software licensed for internal evaluation purposes in a non-production environment.
15. **“Indemnified Technology”** means On-demand Services, Managed Services or On-premise Software (as applicable) paid for by Customer.
16. **“Licence Metric”** means each of the per-unit metrics specified by Adobe concerning the licensed quantities in the Sales Order, to describe the scope of Customer’s licence to use the Products and Services.
17. **“Licence Term”** means the duration of the licence granted for the On-demand Services, Managed Services or On-premise Software (as applicable), as specified in the Sales Order, or any shorter term arising from a termination of this Agreement.
18. **“Losses”** means any damages, losses, costs, expenses, or liabilities incurred by a person.
19. **“Managed Services”** means the enterprise solutions hosted by or on behalf of Adobe (and Distributed Code, where applicable) in a single-tenant environment, as set out in the Sales Order and identified as “Managed Services” in the applicable PDM. Adobe may use virtualization technologies at different layers to mimic the concept of dedicated resources (e.g. processing, networking, message centre servers, etc.) to create a single-tenant environment for Customer.
20. **“Non-Excludable Provision”** has the meaning given to it in clause 9.3 of these General Terms.
21. **“On-demand Services”** means the technology services provided by Adobe and hosted by or on behalf of Adobe in a multi-tenant environment (and Distributed Code, where applicable), as set out in the Sales Order and identified as “On-demand Services” in the applicable PDM.
22. **“On-premise Software”** means the Adobe software that is deployed by or on behalf of Customer on hardware designated by Customer, as set out in the Sales Order and identified as “On-premise Software” in the applicable PDM.
23. **“Party”** means Adobe or Customer, as applicable.
24. **“Products and Services”** means one or more of the following procured by Customer: On-premise Software, On-demand Services, Managed Services, or Professional Services, as set out in the Sales Order.
25. **“Product Descriptions and Metrics”** or **“PDM”** means the Product Descriptions and Metrics document that describes the Products and Services and the terms that apply to their use.
26. **“Professional Services”** means any consulting, training, implementation, or technical services provided by Adobe to Customer, as set out in the “Adobe Professional Services” section of the Sales Order.
27. **“Sales Order”** means the sales order form, statement of work, purchase authorization letter, or other written document for the Products and Services that is either (A) executed between Adobe and Customer; or (B) if no such documents are executed between Adobe and Customer and Customer is purchasing through an Adobe Partner, executed between Customer and the Adobe Partner.