



These General Terms (including any exhibits and attachments) form part of the Agreement between Adobe and Customer and will apply to Customer's procurement of the Products and Services.

1. General Definitions

- 1.1. **Adobe:** means Adobe Systems Incorporated, a Delaware corporation, of 345 Park Avenue, San Jose, California 95110, and/or Adobe Systems Software Ireland Limited, an Irish company, of 4-6 Riverwalk, Citywest Business Campus, Dublin 24, Ireland. Adobe Systems Incorporated is the licensor of all Products and Services in the United States, Canada and Mexico, and Adobe Systems Software Ireland Limited is the licensor of all Products and Services in all other countries.
- 1.2. **Adobe Group:** means Adobe and Related Entities of Adobe Systems Incorporated.
- 1.3. **Adobe Technology:** means any Intellectual Property in the materials and Products and Services provided to Customer by Adobe under this Agreement.
- 1.4. **Agreement:** means the terms and conditions set out in the Sales Agreement, these General Terms (including any exhibits and attachments), and any Product Description and Metrics.
- 1.5. **Claim or Loss:** means, in relation to any person, any damage, loss, cost, expense or liability incurred by the person or a claim, action, proceeding or demand made against the person, however arising and whether present or future, fixed or unascertained, actual, threatened or contingent.
- 1.6. **Confidential Information:** means any of the following, whether in material form or not and whether disclosed before or after the Effective Date:
 - 1.6.1. all information of a party (or any Related Entities) to that party, such party disclosing the relevant information being the "**Discloser**": (i) that are directly or indirectly disclosed to the other party (or any Related Entities) to that other party, such party receiving the relevant information being the "**Recipient**"; or (ii) that the Recipient otherwise becomes aware of under this Agreement;
 - 1.6.2. any other information disclosed by the Discloser which can reasonably be inferred to be confidential from the circumstances in which it is imparted;
 - 1.6.3. the terms of this Agreement; or
 - 1.6.4. any notes and other records prepared by the Recipient that are based on or incorporating the information referred to in any of clauses 1.6.1, 1.6.2 or 1.6.3 above.

A Discloser's Confidential Information does not include information that is: (i) already in the public domain; (ii) received by the Recipient from a third party who does not owe an obligation of confidentiality to the Discloser; or (iii) independently developed by the Recipient.
- 1.7. **Customer:** means the entity or entities identified in the Sales Agreement as the "Customer" or the "End User".
- 1.8. **Effective Date:** means the effective date stated in the Sales Agreement.
- 1.9. **Fees:** means the fees and charges relating to the Products and Services as set out in the Sales Agreement or agreed upon between Customer and its reseller (as applicable).
- 1.10. **Indemnified Technology:** means OnDemand Services and OnPremise Software (as applicable) ordered and paid for by Customer under this Agreement, but excluding any Intellectual Property in any sample code, SDKs, open source, trial or evaluation software, pre-release software, not-for-resale software, and software provided free of charge.
- 1.11. **Intellectual Property:** means all intellectual property rights of whatever nature anywhere in the world, including all rights conferred under statute, common law or equity, including trade mark rights, service mark rights, patents rights, copyrights, design rights and trade secrets, any rights to apply for registration (to the extent registrable) of any of the foregoing rights.



- 1.12. **Licence Metric:** means each of the per-unit metrics specified by Adobe in connection with the licensed quantities identified in the Sales Agreement to describe the scope of Customer's right to use the Products and Services.
- 1.13. **Licence Term:** means the duration of the licence granted for the OnDemand Service or OnPremise Software (as applicable), as specified in the Sales Agreement.
- 1.14. **OnDemand Services:** means the enterprise solution hosted by or on behalf of Adobe as described in the PDM and OnDemand Service section of the Sales Agreement.
- 1.15. **OnPremise Software:** means the distributed software as described in the PDM and the OnPremise Software section of the Sales Agreement.
- 1.16. **Related Entity:** means each body corporate and each unincorporated entity or business association in which a party or wholly-owned subsidiaries of a party directly or indirectly hold 50% of the shares, voting rights, participation or economic interest. In the case of Adobe, "Related Entity" refers to a Related Entity of Adobe Systems Incorporated.
- 1.17. **Party:** means Adobe or Customer as applicable.
- 1.18. **Products and Services:** means the OnPremise Software, OnDemand Services and Professional Services as set out in the Sales Agreement.
- 1.19. **Product Description and Metrics (or PDM):** means the description and related use rights of the Products and Services as specified in the Sales Agreement.
- 1.20. **Professional Services:** means any Time and Materials Engagement, Capped Hours Engagement, Milestone Engagement, Consultant Retainer or Training (as defined in the Exhibit for Professional Services) or other consulting, training, implementation, or technical services provided to Customer, as specified in the Sales Agreement.
- 1.21. **Sales Agreement or Sales Order:** means the sales order form, statement of work, purchase authorization letter or other written agreement or document which sets out the relevant Products and Services to be procured by Customer:
 - 1.21.1. where Customer is procuring the Products and Services directly from Adobe or is otherwise entering into an agreement for the provision of Products and Services directly with Adobe, that has been executed by Adobe and Customer; or
 - 1.21.2. where Customer is procuring the Products and Services from an Adobe reseller and does not have any other written agreement with Adobe for the provision of the Products and Services, that has been submitted to Adobe by an Adobe distributor or reseller for Customer and has been accepted by Adobe, but does not include any document submitted by Customer to the Adobe reseller (such as the Customer's own purchase order), except to the extent that terms in such document are expressly incorporated into and form part of the agreement between Adobe and the distributor or reseller.

2. Payment and Fees

This clause 2 applies only if Customer places its order(s) for the Products and Services directly with Adobe. If Customer places its order(s) for the Products and Services with a reseller or other party, the payment terms and fees will be as agreed upon by Customer and such reseller or other party.

- 2.1. **Payment.** Customer must pay the Fees in accordance with the payment terms set out in the Sales Agreement. Unless otherwise agreed in the Sales Agreement, all payments must be made by wire transfer or bank cheque according to the remit instructions set out on the invoice. All invoices are electronically mailed to Customer only. All payments must reference the invoice number and Customer must provide to Adobe (via email to bvar@adobe.com) a detailed remittance advice of each payment. Any payments received by Adobe without the remittance advice will be credited to Customer's account at the discretion of Adobe. Customer must bear all bank and/or transaction charges for the payments and Customer must ensure that its bank is instructed on the same.



- 2.2. **Failure to Pay.** If Customer fails to pay any amount due under this Agreement within 30 days from the date of a notice from Adobe of Customer's failure to pay, Adobe may, in its discretion, terminate, suspend or restrict provision of the Products and Services (in whole or in part).
- 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 date of the applicable invoice, specifying the calculation error and the amount of the adjustment or credit requested. Unless Customer has notified Adobe of such dispute, Customer will reimburse Adobe for all reasonable costs and expenses incurred by Adobe in collecting any overdue amounts under this Agreement.
3. **Delivery.** OnPremise Software will be deemed to be delivered and accepted by Customer on the date the software is made available for electronic download or on the date that Adobe delivers the tangible media (e.g., CD or DVD) containing the OnPremise Software at Adobe's warehouse to a carrier selected by Adobe for onward shipment to Customer, with freight costs and insurance prepaid by Adobe, and any taxes and duties that Adobe in its sole discretion chooses to prepay (as applicable). OnDemand Services will be deemed to be delivered and accepted on the start date of the OnDemand Services set out in the Sales Agreement.
4. **Taxes.** This clause 4 applies only if Customer places its order(s) for the Products and Services directly with Adobe. Unless otherwise stated, prices in the Sales Agreement do not include taxes. Taxes may be invoiced separately by Adobe. Customer is responsible for payment of all taxes to the Products and Services. Customer must provide a tax exemption claim to Adobe before an invoice is issued. If Customer is required under law to withhold any income taxes from its payment of the Fees to Adobe, Customer must provide to Adobe an official tax receipt documenting this withholding within 60 days of the date of the relevant invoice.
5. **Confidentiality and Privacy.**
 - 5.1. **No Use or Disclosure.** The Recipient must keep all Confidential Information confidential and not disclose it in any way except: (i) as expressly permitted under this Agreement; (ii) to the extent necessary to fulfill its obligations under this Agreement (including, where Adobe is the Recipient, to Adobe's suppliers to the extent necessary to perform Adobe's obligations under this Agreement); (iii) to the Recipient's professional advisers (including lawyers) who need to know such Confidential Information; (iv) where Adobe is the Recipient, Adobe may retain achieved copies of any Customer Confidential Information for the purposes of any audit; or (v) as otherwise expressly agreed to in writing by Discloser, provided that the Recipient ensures that any party receiving such Confidential Information is under an obligation to keep the Confidential Information confidential under terms at least as restrictive as those in this clause 5.
 - 5.2. **Required Disclosure.** Where the Recipient is required to disclose Confidential Information in order to comply with any law: (i) the Recipient must immediately notify the Discloser of the particulars of the required disclosure; and (ii) the Recipient must give the Discloser all assistance reasonably required by the Discloser to enable the Discloser to take any steps available to it to prevent the disclosure or to ensure that it occurs subject to an appropriate obligation of confidence.
6. **Term and Termination.**
 - 6.1. **Term.** This Agreement commences on the Effective Date and will continue until the expiry of the Licence Term, unless terminated earlier pursuant to this Agreement.
 - 6.2. **Termination for Cause.** If a Party materially breaches this Agreement, the non-breaching Party may provide written notice to the breaching Party indicating (i) the nature and basis of such breach, with reference to the applicable provisions of this Agreement; and (ii) the non-breaching Party's intention to terminate all or part of this Agreement. If the breach is not cured within 30 days of the receipt of such written notice, the non-breaching Party may terminate this Agreement (in whole or in part) immediately. However, either Party may terminate this Agreement (in whole or in part) immediately upon written notice to the breaching Party if the other Party is in breach of any confidentiality or privacy provisions of this Agreement. Adobe may terminate the Agreement (in whole or in part) upon written notice to Customer if Customer breaches clause 7.2 or uses the Products and Services beyond the scope of the licence granted under this Agreement.

- 6.3. **Termination for Insolvency.** Adobe may terminate this Agreement immediately upon notice to Customer if Customer is subject to any of the following events (or any events in the nature of or analogous to the following): (i) insolvency; (ii) any form of voluntary or involuntary insolvency administration or liquidation; or (iii) entering into a scheme or voluntary arrangement with its creditors for partial discharge of indebtedness.
- 6.4. **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, fees, taxes, confidentiality, privacy, term, termination, intellectual property, indemnification, liability and general provisions.

7. Intellectual Property

- 7.1. **Ownership.** Adobe or its licensors will continue to 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, except to the extent permitted under the law.
- 7.3. **Licence to Adobe.** If Customer provides Adobe with material relevant to the Products and Services, Customer grants to Adobe and the Adobe Group a non-exclusive licence to use that material for purposes for or relating to the provision of the Products and Services to Customer.

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 such Claim alleges that the Indemnified Technology directly infringes any patent, copyright, or trademark, or misappropriates a trade secret of the third party ("**Infringement Claim**"). Adobe will pay Customer the Losses (including reasonable legal fees) finally awarded by a court of competent jurisdiction against Customer, or agreed to in a written settlement agreement signed by Adobe, directly attributable to an Infringement Claim.
- 8.2. **Adobe's rights.** If Customer's use of the Indemnified Technology is enjoined or Adobe determines that such use may be enjoined, then Adobe may, at its option and expense: (i) procure for Customer a licence to continue using the Indemnified Technology in accordance with the terms of this Agreement; (ii) replace or modify the allegedly infringing Indemnified Technology to avoid the infringement; or (iii) terminate Customer's licence to the Indemnified Technology or the infringing part thereof, and refund (a) in the case of OnDemand Services, any prepaid unused Fees as of the date of termination or (b) in the case of OnPremise Software, an amount equal to the pro-rata value of the OnPremise Software, calculated by depreciating the Fee paid by Customer for such OnPremise Software on a straight-line basis using a useful life of 36 months from the date of initial delivery of the OnPremise Software, provided that Customer purges all copies of the OnPremise Software and related materials from all computer systems on which it was stored and returns to Adobe all physical copies of the OnPremise Software and related materials.
- 8.3. **Conditions to Indemnification.** Adobe is not liable under clause 8.1 and will have no liability in connection to any Infringement Claim:
 - 8.3.1. that arises from (i) any use of the Indemnified Technology in a manner contrary to the terms of this Agreement; (ii) any modification of the Indemnified Technology by anyone other than Adobe or a party authorized in writing by Adobe to modify the Indemnified Technology; (iii) any combination of the Indemnified Technology with any other products, services, hardware, software or other materials if such Indemnified Technology would not be infringing without such combination; (iv) any products, services, hardware, software or other materials that do not form part of the Products and Services; or (v) any failure by Customer to install the latest updated version of the Indemnified Technology as requested by Adobe to avoid infringement; or
 - 8.3.2. if Customer fails to: (i) notify Adobe in writing of the Infringement Claim promptly upon learning of or receiving the same; (ii) provide Adobe with reasonable assistance requested by Adobe (at Adobe's expense) for the defence or settlement (as applicable) of the Infringement Claim; (iii) provide Adobe with the exclusive right to control and the authority to settle the Infringement Claim, provided that

Customer may participate in the matter at Customer's own expense; (iv) not make any admissions in relation to the Infringement Claim without Adobe's prior written consent; (v) mitigate any damages Customer suffers as a result of the Infringement Claim; or (vi) permit Adobe to exercise its rights under clause 8.2.

- 8.4. **Sole and Exclusive Remedy.** The remedies in this clause 8 are Customer's sole and exclusive remedies with respect to the subject matter giving rise to any Claim that the Products and Service infringe any third party's Intellectual Property.

9. Liability

- 9.1. **Limitation of liability.** Except in connection with a breach of clause 5, Customer's use of any 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:

9.1.1. neither Party is liable for and no measure of damages will, under any circumstances, include indirect, consequential, incidental or punitive damages; or damages for loss of profits, revenue, business interruption, goodwill, anticipated savings or loss or corruption of data, whether in contract, tort (including negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage; and

9.1.2. the maximum aggregate liability of each Party for all Claims under or relating to this Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, is limited to an amount equal to the aggregate of the Fees paid by Customer under this Agreement during the 12 months preceding the first act or omission giving rise to the liability for the a Claim under or relating to this Agreement ("**Liability Cap**"). For clarity, the Liability Cap is a single amount and where a Party's liability under this Agreement has reached the Liability Cap, the Liability Cap will not reset or cumulate for any further Claims and the relevant Party will have no further liability for any Claims under or relating to this Agreement or its subject matter.

- 9.2. **Implied warranties.** To the maximum extent permitted by law, Adobe provides the Products and Services on an "as is" basis and all express or implied guarantees, warranties, representations, or other terms and conditions relating to this Agreement or its subject matter, not contained in this Agreement, are excluded from this Agreement.

- 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 in relation to 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: (i) 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 (ii) 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. General Provisions

- 10.1. **Proprietary Notices.** Any permitted copy of the Products and Services (or related materials) made by Customer must contain the same copyright and other proprietary notices that appear on or in such Products and Services.
- 10.2. **Assignment.** Adobe may assign, transfer or novate all or part of its rights or obligations under this Agreement to a third party without Customers' prior consent. Customer may not assign, transfer or novate this Agreement or otherwise deal with the benefit of it or a right under it, or purport to do so, without the prior written consent of Adobe, except that Customer may assign this Agreement in its entirety to a surviving entity pursuant to a merger or acquisition of Customer upon prior written notice to Adobe if such assignment does not expand the scope of the licence granted in the Products and Software. Any assignment, transfer or novation by Customer under this Agreement will be subject to Adobe's determination of the assignee's creditworthiness.
- 10.3. **Governing Law, Jurisdiction.**
- 10.3.1. If Customer is resident in a member state of the Association of Southeast Asian Nations (ASEAN) (excluding Myanmar), mainland China, Hong Kong S.A.R., Macau S.A.R., Taiwan R.O.C., the Republic of Korea, Bangladesh or Nepal:
- (a) This Agreement (including the arbitration agreement contained in this clause) shall be governed by and construed pursuant to 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 pursuant to the Contract (Rights of Third Parties) Act.
 - (b) Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this section.
 - (c) There will be one arbitrator, selected jointly by the parties. If the arbitrator is not selected within thirty (30) days of the written demand by a party to submit to arbitration, the Chairman of the SIAC will make the selection.
 - (d) The arbitration will be conducted in the English language, provided that any witness whose native language is not English may give testimony in his or her native language, with simultaneous translation into English (at the expense of the party presenting any such witness).
 - (e) Judgment upon the award rendered may be entered and will be enforceable in any court of competent jurisdiction having jurisdiction over the parties.
- 10.3.2. If Customer is a resident of any other country, including Australia, New Zealand, India, Sri Lanka or Myanmar: This Agreement shall be governed by and construed pursuant to the Laws of England and Wales without regard to its conflict of laws principles. The parties irrevocably submit to the non-exclusive jurisdiction of the courts in London, England.
- 10.3.3. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 10.4. **Force Majeure.** Neither Party will be 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, governmental acts, orders, or restrictions, third party suppliers, denial of service attacks and other malicious conduct, utility failures, or power outages.
- 10.5. **Injunctive Relief.** Actual or threatened breach of this Agreement may cause immediate or irreparable harm that would be difficult to calculate and could not 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, prior to the institution of legal



proceedings, or during the proceedings, for the preservation of its rights and interests or to enforce specific terms that are suitable for provisional remedies.

- 10.6. **Notices.** Any notice given under this Agreement must be in writing and may be given by email. Customer may give such notice to Adobe to the following email address: ContractNotifications@adobe.com and Adobe to Customer's email address stated on the Sales Agreement or as otherwise notified in writing by Customer. A notice is taken to have been received by email upon the earlier of (i) the sender receiving an automated message confirming delivery; or (ii) 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.
- 10.7. **Customer Responsibility.** Customer is responsible for all acts and omissions of any third parties who use or access the Products and Services.
- 10.8. **No agency.** Nothing in this Agreement is intended to constitute a fiduciary relationship or an agency, partnership or trust between the parties. No party has authority to bind any other party.
- 10.9. **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 set out in this Agreement directly against Customer.
- 10.10. **Customer's Purchase Order.** Any terms or conditions in Customer's purchase order or any other related documentation submitted by Customer or on behalf of Customer to Adobe or any other party such as an Adobe reseller, do not form part of this Agreement, and are void and have no legal effect, unless otherwise expressly agreed in writing signed by both Customer and Adobe.
- 10.11. **Non-Acceptance of Licence Terms.** 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.
- 10.12. **Waiver.** Neither Party's waiver of the breach of any provision shall constitute 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.
- 10.13. **Entire Agreement.** This Agreement contains the entire understanding of the Parties relating to the subject matter and supersedes all prior agreements, understandings, proposals, discussions, negotiations, representations and warranties, both written and oral, regarding such subject matter.
- 10.14. **Inconsistency.** If there is any inconsistency between the following parts of this Agreement, then the part listed earlier will prevail to the extent of the inconsistency: a) Sales Agreement (excluding the PDM); b) PDM c) any Exhibit to these General Terms; d) these General Terms.
- 10.15. **Counterpart.** This Agreement (or a component) may be executed in one or more counterparts, each of which will constitute an original and all of which taken together will constitute the same Agreement. Faxed, electronic or digital signatures will be of equal effect and validity as signatures on original copies.
- 10.16. **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.
- 10.17. **Interpretation.** In this Agreement, unless the contrary intention appears: (i) headings are for convenience only and do not affect the interpretation of this Agreement; (ii) the singular includes the plural and vice versa; (iii) the words "such as", "including", "particularly" and similar are not used to be interpreted as words of limitation; (iv) a party includes its successors and permitted assigns; (v) a document includes all amendments or supplements to that document; (vi) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced; (vii) an agreement on the part of two or more persons binds them jointly and severally; (viii) in determining the time of day, the relevant time of day is: (a) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or (b) for any other purpose, the time of day in the place where the party required to perform an obligation is located; (ix) 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 (x) this Agreement is prepared and is executed in the English language only. If any courtesy translation(s) of this Agreement is made available to Customer, the English language version will prevail in all respects, and such courtesy translation will not be binding and will have no effect. Without limiting the foregoing, if there is any conflict or inconsistency between the English language version of the Agreement and any courtesy translation, the English language version and interpretation will prevail.

- 10.18. **Export Rules.** Customer acknowledges that the Products and Services may be subject to the U.S. Export Administration Regulations and other export laws, and Customer will comply with such export laws.