

1. Professional Services Definitions

- 1.1. **Time and Materials Engagement:** means engagements with an agreed service rate(s) specified in a Sales Order (which may be blended or tiered depending on skill set and measured, for example, on a per hour or per day rate) for services to be performed by Adobe over an agreed period.
- 1.2. **Milestone Engagement:** means engagements that are performed on a fixed-price basis for services payable upon the completion of well-defined milestones.
- 1.3. **Capped Hours Engagement:** means engagements with a general description of work to be completed, and for which there is an agreed upper limit on the total hours to be provided by Adobe (e.g. an engagement where Customer will receive assistance on the described project, but only until the cap is reached, regardless of project status).
- 1.4. **Consultant Retainer:** means engagements for which Customer purchases a number of hours per period (e.g. week, month, or year) to be deployed over the term of the retainer (e.g. an engagement where Customer may consume up to 10 hours per month over a period of one year).
- 1.5. **Start Date:** means the scheduled start date of the relevant engagement as specified in the Sales Order.
- 1.6. **Training:** means any training services provided at an approved Adobe training facility or on-site for the time period and number of individuals set out in the Sales Order.

2. Licence to Deliverables. For all Professional Services, unless otherwise agreed in writing by the Parties, the following terms will apply:

- 2.1. Without limiting or modifying any licence granted to Customer in respect of the OnPremise Software or OnDemand Services, Adobe grants to Customer a non-exclusive, non-sublicensable and non-transferable licence to use any materials developed and provided to Customer in the performance of the Professional Services (“**Deliverables**”) solely for Customer’s internal business purposes.
- 2.2. Adobe retains all Intellectual Property in and to the Deliverables. To the extent that Customer participates in the creation or modification of any Adobe Technology or Deliverables, Customer waives, and assigns to Adobe, any Intellectual Property in such Adobe Technology or Deliverables.

3. Employment Taxes and Obligations. Adobe is responsible for all taxes and other employment obligations arising from its employment of its personnel and contractors performing the Professional Services under this Agreement.

4. Time and Materials Engagements. The scope of services to be performed in a Time and Materials Engagement may be described in the Sales Order but may change over the course of the engagement, depending on Customer’s evolving priorities, and as agreed from time to time between the parties. Fees for Time and Materials Engagements are billed in arrears.

5. Milestone Engagements. Adobe only enters into Milestone Engagements when: (i) the engagement has been fully scoped by Adobe in advance; (ii) the engagement is based upon clearly defined assumptions and Customer dependencies; (iii) the level of effort required for each milestone has been ascertained by Adobe clearly in advance, and (iv) an appropriate risk premium has been built into the relevant Fees by Adobe. Any difference between occurrences and assumptions and any failure by Customer to meet any commitment will entitle Adobe to a reasonable adjustment of fees.

6. Capped Hours Engagement. Unless otherwise specified in the Sales Order, for Capped Hours Engagements, any hours under the relevant cap which remain unused 12 months following the Start Date will expire and cannot be used for any other purpose. Fees for Capped Hours Engagements are billed in advance.

7. Consultant Retainers. For Consultant Retainers, hours not consumed within each specified period will expire and cannot be used for any other purpose.

8. Acceptance.

- 8.1. For Milestone Engagements, unless otherwise agreed in writing by the Parties:
 - 8.1.1. the Milestone Engagements associated with a milestone will be deemed to be accepted by Customer upon completion of the milestone as described in the Sales Order; and



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- 8.1.2. Customer may only reject a Deliverable if Adobe fails to comply with the applicable acceptance criteria set out in the Sales Order (if any). Any rejection of a Deliverable must be in writing and delivered to Adobe within 5 business days of delivery of the Deliverable, and such notice must provide Adobe with enough information to enable Adobe to identify the non-conformity to the applicable acceptance criteria and to repair the Deliverable (“**Rejection Notice**”). Adobe will then be given a reasonable opportunity to re-submit the Deliverable and the same acceptance procedure will be repeated. Acceptance of a Deliverable occurs on the earlier of: (i) the date Customer issues a notice of acceptance to Adobe; (ii) upon expiry of the acceptance test period unless Customer has issued Adobe with a valid Rejection Notice; and (iii) use or deployment by Customer of a Deliverable in a non-testing environment.
- 8.2. For Time and Materials Engagements, Capped Hours Engagements, Consultant Retainers and Training, the Professional Services will be deemed to be accepted by Customer upon Adobe’s performance of the relevant engagement as described in the Sales Order.
9. **Professional Services Warranty.** Adobe warrants for a period of 30 days from commencement of the performance of the Professional Service (“Warranty Period”) that the Professional Service is performed in a professional and workmanlike manner. Customer must notify Adobe in writing of any breach of this warranty during the Warranty Period. Customer’s sole remedy for breach of this warranty will be re-performance of the relevant Professional Service.
10. **Privacy; Sensitive Data.** Adobe structures its Professional Services whenever possible to avoid the transmission to Adobe of information that is regulated by applicable privacy or data protection laws (“Protected Data”) (for example, by using “dummy data” when configuring or testing solutions). Moreover, the transmission of Protected Data may require the recipient to undertake special precautions and use appropriate infrastructure for the handling of Protected Data (and, in some circumstances, enter into ancillary agreements such as a Business Associate Agreement before it may legally receive such information). Absent compelling business reasons for doing so, Adobe does not wish to receive Protected Data. Accordingly, Customer must not transmit Protected Data to Adobe unless the Parties have agreed in writing to terms specifying that Adobe has agreed to receive Protected Data, and detailing the protocol for the transmission and processing of such Protected Data.
11. **Cancellation of Training.**
- 11.1. Any request by Customer to cancel any Training must be received in writing and confirmed by Adobe. If such confirmed request was received at least 10 business days before the Start Date, Customer may reschedule the Training without additional charge. If such confirmed request was received between 6 and 10 business days before the Start Date, Adobe will refund Customer half the Fees of the relevant Training. If such confirmed request was received less than 5 business days before the Start Date, then Customer will not be entitled to a refund of any Fees applicable to the Training and such Fees will be forfeited by Customer. If Customer fails to use the rescheduled Training within 12 months of original notice of Customer’s cancellation, all Fees applicable to such Training will be forfeited by Customer.
- 11.2. If a registered attendee does not show up for any Training (e.g. course), or if due to any act or omission of Customer, Adobe is unable to perform any Training, all Fees applicable to such Training will be forfeited by Customer.
- 11.3. Adobe may cancel Training at any time. In the event of such cancellation, Customer may choose to: (i) receive a full refund of the Fees applicable to the cancelled Training; or (ii) reschedule the cancelled Training. In the event Customer chooses to reschedule, but fails to complete or use the rescheduled Training within 12 months of original notice of cancellation, all Fees applicable to the cancelled Training will be forfeited by Customer.
- 11.4. There will be no partial delivery on any of the individually listed Training set out in a Sales Order.
12. **Practical Training Requirements.** For on-site Training, minimum requirements (such as minimum requirements for PCs, space and projectors) will be notified to Customer before the Start Date. If Customer fails to meet any of these requirements on and from the Start Date, resulting in the inability of Adobe to perform the relevant Training, such failure will be considered a cancellation by Customer on the Start Date pursuant to clause 11.1.



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- 13. Use of Subcontractors.** Customer agrees that Adobe may use subcontractors in the performance of the Professional Services. Where Adobe sub-contracts any of its obligations in relation to the Professional Services, Adobe will not be relieved of its obligations to Customer under this Agreement.