



## ADOBE PDM – Adobe Digital Publishing Suite (2013v3)

The Services described in this PDM are governed by the General Terms, the Exhibit for OnDemand Services, this PDM, and the applicable Sales Order. As used in this PDM, OnDemand Service means Digital Publishing Suite, which is a customizable solution for enterprise publishers, global corporations, and worldwide ad agencies who want to transform their digital business through new revenue streams, deeper customer relationships, and cost-efficient tablet publishing.

### 1. Additional Definitions

- 1.1 **“Authorized Viewer”** means (a) a viewer application that is authorized by Adobe to display .folio file content and (b) single issue application developed using the Distributed Code provided by Adobe for the purpose of building such application. Authorized Viewer also includes any Adobe-branded viewer applications.
- 1.2 **“Customer Content”** means, in addition to the definition stated in the OnDemand Exhibit Customer’s publications or materials generated using the Software and DPS Service intended for use with the Authorized Viewer, or the related Services, including without limitation the files in Adobe’s proprietary file format for DPS (“.folio”).
- 1.3 **“Customer Viewer”** means Customer-branded Authorized Viewer.
- 1.4 **“Digital Publishing Portal”** means singular launch point for Customers to use and access DPS Services.
- 1.5 **“DPS”** means Adobe’s Digital Publishing Suite.
- 1.6 **“DPS Services”** means the OnDemand Services made available to Customer as further described in section 3. DPS Services include the Gold support program.
- 1.7 **“Fulfillment”** means each completed fulfillment or distribution of Customer’s digital publications (such as .folio files) or designated section of such publication to Authorized Viewer across supported platforms and devices. If Customer enables the functionality to distribute certain sections within the publication, as designated by Customer, then the publication is deemed to have been completely fulfilled (e.g., a Fulfillment has occurred) when such designated section is fulfilled or distributed to Authorized Viewer. However, the fulfillment or distribution of other sections within such publication is not considered as an additional Fulfillment.
- 1.8 **“Fulfillment Bundle”** means the available bundle of Fulfillment stated in Adobe’s then-current fee schedule.
- 1.9 **“Proprietary Rights”** means any patent, copyright, trademark, service mark, mask work, moral rights, trade secret, or other intellectual property or proprietary right.
- 1.10 **“Reports”** means, in addition to the content described in the OnDemand Exhibit, data provided by the Authorized Viewer, as so long as such functionality is enabled.
- 1.11 **“Territory”** means territory or region where Customer obtains, uses, or accesses the Software and DPS Services from Adobe or as otherwise stated in the applicable Sales Order. Unless otherwise stated in a separate addendum, the People’s Republic of China is expressly excluded from “Territory.”
- 1.12 **“Web Viewer”** means an internet browser-based version of the Authorized Viewer.

### 2. Additional Restrictions Related to Distributed Code

- 2.1 SDK and other Development Software. With respect to SDKs and development software provided for the creation of Customer Content or Authorized Viewers:

(A) Customer may only use the Distributed Code within the Territory solely for the purposes of developing and testing the Customer Viewer and Customer Content.

(B) Unless explicitly authorized by Adobe, Customer is not authorized to distribute Distributed Code to any third party.

2.2 **Font Software.** For any Adobe font that is identified as “available for licensed DPS users” on Adobe’s website at [www.adobe.com/type/browser/legal/additional\\_licenses.html](http://www.adobe.com/type/browser/legal/additional_licenses.html), Customer may embed copies of such font software into Customer Content solely for the purpose of distributing such embedded font in Adobe’s proprietary file format for DPS (“.folio file”) that is made available to end users for viewing purposes only as part of the Customer Viewer. No other embedding rights are implied or permitted under this license.

### 3. Additional Restrictions Related to OnDemand Service

3.1 **DPS Services.** With respect to DPS Services, Customer may only use and access the DPS Services within the Territory for the sole purpose of developing the Customer Content and publishing and distributing the Customer Content with an Authorized Viewer.

#### 3.2 Customer Viewer

(A) **Distribution License.** During the Term, and subject to Customer’s compliance with the Agreement, Customer may distribute Customer Viewer to end users. Customer may distribute pre-production or beta versions of Customer Viewer to end users for end users’ internal use. Customer remains liable for any obligations or liabilities to Adobe arising or resulting from the acts or omissions in breach of these terms and conditions by Customer’s distributors.

(B) **Customer EULA.** Customer will take all steps necessary to protect Adobe’s Proprietary Rights in the Customer Viewer and ensure that such Customer Viewer is distributed to or made available to the end users under an enforceable end user license agreement in favor of Customer and its suppliers containing at least the following terms: (i) a prohibition against distribution and copying, (ii) a prohibition against modifications and derivative works, (iii) a prohibition against decompiling, reverse engineering, disassembling, and otherwise reducing the software to a human perceivable form, (iv) a provision indicating by Customer and its suppliers ownership of the Software, (v) a disclaimer of indirect, special, incidental, punitive, and consequential damages, (vi) industry standard disclaimers and limitations, such as a disclaimer of all applicable statutory warranties, to the full extent allowed by law, a limitation of liability not to exceed the price of the Customer Viewer, and a provision that the end user’s sole remedy is return and refund, if any, from Customer, and (vii) and terms of conditions notifying the end user of any restrictions including but not limited to the reporting of abuse, copyright infringement, and any other violations related to Customer Content.

(C) **Upgrades.** Customer must use reasonable efforts to update the Customer Viewer with any updates or upgrades to the Software provided to Customer by Adobe within a reasonable period of time after Customer first receives the applicable update or upgrade.

3.3 **Agency License.** If permitted and indicated in Sales Order, then Adobe grants to Customer a non-exclusive right to Access and use the Software and DPS Services on behalf of Customer’s clients as stated in the Sales Order pursuant to the Agreement, provided that (a) Customer enters into a written service agreement with its client that (i) grants Customer and its distribution partners (such as Adobe) sufficient rights to reproduce and distribute any digital content created under this license and (ii) makes Adobe (as a distribution partner) a third-party beneficiary to such agreement, including a beneficiary of any non-infringement warranties and indemnification provisions; and (b) Adobe may terminate, restrict, or suspend the Fulfillment of any Customer Content or Customer Viewer in accordance with the Master Term, such as for failure to pay fees. Any such viewer and content of Customer’s clients are deemed a Customer Viewer and Customer Content, respectively. Contract Customer agrees that (x) the use contemplated in this section is only for the direct benefit of Customer’s clients; (y) such use does not represent or constitute an increase in the scope or number of licenses provided hereunder; and (z)

Contract Customer remains fully liable for any and all acts or omissions by Contract Customer's clients related to the Agreement. In no event may Customer use the license granted in this section to act as a reseller of the Software or DPS Services.

### 3.4 Fulfillment

(A) Unless otherwise set forth in an applicable Sales Order, any unused Fulfillments expire 1 year from the License Term Start Date identified in the applicable Sales Order and does not carry over or be valid for any other purpose past the end of such year.

(B) **Fulfillment Renewal.** Customer may track Customer's available Fulfillments through the Digital Publishing Suite portal or dashboard. If at any time Customer's Fulfillment number is zero (i.e., there is no available Fulfillment; such event is referred to as ("**Fulfillment Renewal**"), then Adobe may advance additional Fulfillments or Fulfillment Bundles pursuant to the then-current fee schedule during a Grace Period determined at Adobe's sole discretion (typically the "**Grace Period**" would be 30 days). Such advancement of Fulfillments is effective as of the date that Fulfillment Renewal occurs and not the date of advancement or purchase. Customer must purchase additional Fulfillment Bundles pursuant to the then-current fee schedule prior to the end of the Grace Period so that the total available Fulfillments is more than zero. These additional Fulfillment Bundles expire on the 1st anniversary of the date of Fulfillment Renewal. Any advancement during the Grace Period will be deducted from these additional Fulfillment Bundles. Customer is solely responsible and liable for any outstanding payments and fees related to Fulfillment Renewal, including without limitation fees for advancing Fulfillments or Fulfillment Bundles to Customer during the Grace Period. Upon Customer's failure to make payment as stated in the Agreement, Adobe may (a) suspend publication of folios; (b) restrict Fulfillments; (c) suspend Fulfillments; and/or (d) terminate Customer's account.

3.5 **Device-Specific Programs.** Customer is responsible for enrolling in any device-specific developer programs at as well as any fees or expenses related to such developer systems. Customer is also responsible for completing any application submission process, including but not limited to the payment of associated fees, required for Customer's applications, such as the Customer Viewer, to appear on the specific device app "store" or marketplace.

3.6 **Third-Party Fees and Expenses.** Customer's ability to access the Services may require payment of third-party fees (such as telephone toll charges, mobile carrier fees, ISP, data plan, etc.). Customer is responsible for payment of any and all fees or expenses related to the procurement of SSL certificates or similar credentials required for Customer's submission of the Customer Viewer (i.e. such as Customer's submission of its Content Viewer to third party app stores and marketplaces) in connection with its use of the DPS Services.

3.7 **Web Viewer.** Adobe may make available a Web Viewer for the distribution of certain Customer Content. Except as otherwise permitted, Customer may not embed the Web Viewer in an iFrame (or equivalent) without using the library associated with the Web Viewer. Customer may not reverse engineer or modify any library associated with the Web Viewer. If Customer elects to use certain features within the Authorized Viewer to allow end users to share Customer Content, including without limitation, via social media, email, or web address, then Fulfillments to the Web Viewer will be calculated against Customer's Fulfillment Bundle as follows: "**Counted Number**" means the number of articles in a folio. Whenever Adobe delivers Counted Number of articles into the Web Viewer on a device, Adobe will deduct 1 Fulfillment against Customer's Fulfillment Bundle. For example, if a folio contains 10 articles, then Adobe will deduct 1 Fulfillment when 10 articles (any articles) are delivered into the Web Viewer.

3.8 **Article Preview.** If Customer elects to use certain features within the Authorized Viewer to allow end users to preview certain designated Customer Content ("**Preview Features**"), then Fulfillments related to the Preview Features will be calculated against Customer's Fulfillment Bundle as follows: "**Preview Number**" means the number of articles in a folio that are not indicated as free content. Whenever Adobe delivers Preview Number of articles from the folio into each Authorized Viewer on a device, Adobe will deduct 1 Fulfillment against Customer's Fulfillment Bundle.

- 3.9 **Notice and Takedown.** Customer agrees that it will only make content available that originates with and/or is licensed by Customer for distribution by Customer. It is Customer's sole responsibility to manage any reports of violations reported to Customer (including without limitation privacy notice violations, takedown requests under the applicable law.
- 3.10 **Use Restrictions.** Customer may not (a) introduce a virus, worm, Trojan horse, or other harmful software code or similar files that may damage the operation of a third party's computer or property or information; (b) use the DPS Services in any manner that could damage, disable, overburden, or impair any Adobe server, or the network(s) connected to any Adobe server or interfere with any other party's use and enjoyment of the DPS Services; (c) attempt to gain unauthorized access to DPS Services, materials, other accounts, computer systems or networks connected to any Adobe server or to the DPS Services, through hacking, password mining, or any other means; (d) engage in any systematic extraction of data or data fields, including without limitation email addresses; (e) disclose, harvest, or otherwise collect information, including email addresses, or other private information about any third party without that party's express consent; (f) defraud, defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights (such as rights of privacy and publicity) of others; or (g) upload, or otherwise make available, files that contain images, photographs, software, or other material protected by intellectual property laws, including, for example, and not as limitation, copyright or trademark laws (or by rights of privacy or publicity) unless Customer owns or controls the rights thereto or has received all necessary consent to do the same

#### 4. Customer Content

- 4.1 Adobe will not remove Customer Content that Adobe hosts on Customer's behalf until (x) Adobe is put on actual notice that such content violates the law; (y) Adobe provides Customer a reasonable opportunity to remove the content; and (z) Customer fails to do so. Upon Customer's failure to cure within a reasonable time upon notice, Adobe has the sole discretion to determine whether to remove the Customer Content stated in the notice or suspend or terminate Customer's license to Access and use the DPS Services.
- 4.2 If Customer Content includes files in the .folio format, then Customer may only distribute and Adobe is only obligated to fulfill such content through Authorized Viewer. Customer may not distribute the files in .folio format to a third party for the purpose of creating a viewer to such file, distributing such file through the third-party viewer, or otherwise circumvent any digital rights management related to such file or the Software.
- 4.3 Customer will not provide Adobe with any Customer Content and Customer Data, or any other materials that: (i) infringe any third party's Proprietary Rights; (ii) violate any law, statute, ordinance or regulation, including without limitation the laws and regulations governing export control and email/spam and laws governing content and data privacy; (iii) are defamatory or trade libelous; or (iv) are obscene, or promotes, solicits or comprises inappropriate, harassing, abusive, profane, threatening, indecent, vulgar, or otherwise objectionable or unlawful content or activity; (v) is harmful to minors; (vi) contains any viruses, Trojan horses, worms, time bombs, or any other similar software, data, or programs that may damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, information, or property of another; or otherwise violate the Agreement.

5. **Privacy Statement.** Adobe may process the Customer Data and serve the Customer Content on behalf of Customer. If required by applicable data protection legislation or government guidelines, Customer will inform third parties of the processing and serving of such data and content and ensure that such third parties have given any required consents. Adobe is not liable for any inconsistencies or inaccuracies within any such statements.

6. **Termination for Privacy Breach.** If either Party breaches the privacy obligations in this Agreement, then the non-breaching Party may terminate the Sales Orders immediately upon written notice to the breaching Party.