



GENERAL TERMS FOR ADOBE DIGITAL LEARNING SERVICES (2016v1)

1. DEFINITIONS

“**Adobe**” means one or both of the following:

- (A) If the Learning Services are licensed in the United States, Canada, Mexico, United States territories and possessions, and United States military bases wherever located: Adobe Systems Incorporated, located in San Jose, California.
- (B) If the Learning Services are licensed in Australia, Adobe Systems Software Ireland Limited (located in Ireland), in its capacity as authorized agent for Adobe Australia Trading Pty Ltd.
- (C) If the Learning Services are licensed in all other countries: Adobe Systems Software Ireland Limited, located in Ireland.

“**Adobe Partner**” means an entity that is appointed by Adobe to process orders from end users, or a reseller of Learning Services to end users.

“**Adobe Technology**” means technology owned by Adobe or licensed to Adobe by a third party (including the Learning Services, 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.

“**Agreement**” means these General Terms together with any ordering documents.

“**Customer**” means the User or entity registering for the Learning Services via a registration site, purchase order, or other ordering document.

“**License Term**” means the duration of the license for the Learning Services, as stated on the registration site, the purchase order or relevant purchasing document; or any shorter term arising from a termination of this Agreement.

“**Party**” means Adobe or Customer, as applicable.

“**Learning Services**” means any consulting, training, implementation, or technical services provided by Adobe to Customer, as set out in the applicable registration site, purchase order, or other ordering document.

“**User**” means an individual who may use or access the Learning Services.

2. PAYMENT OF FEES

If Customer orders the Learning Services from an Adobe Partner, payment terms are agreed between Customer and the Adobe Partner. Customer must pay any applicable fees according to the payment terms on the registration site, in a purchase order, on the registration site, in a purchase order, or any applicable ordering document. Any invoices will only be delivered electronically to Customer. 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 expiration will be immediately due and payable. Customer agrees to provide clear indication with its checks (or other form of payment) as to which invoices (or portions thereof) the payment should be applied. Alternatively, these payment details can be emailed to sjar@adobe.com no later than the date of payment. If Customer fails to pay any amount due under this Agreement according to the payment terms in the on the registration site, in a purchase order, on the registration site, or any applicable ordering document, Adobe will send Customer a reminder notice. If Customer fails to pay within 15 days of the date of the reminder notice, Adobe may, in its sole discretion, terminate the applicable Learning Services.

3. LICENSE AND RESTRICTIONS

If Customer is a business, the number of Customers’ Users may access the Learning Services set forth in the applicable registration site, purchase order, or other applicable ordering document. If Customer is an individual, the Customer may

access the Learning Services via the Learning Services as set forth in the applicable registration site, purchase order, or other applicable ordering document.

Except as permitted under this Agreement, Customer must not:

- (A) exceed the number of Users accessing the Learning Services;
- (B) use the Learning Services in (1) violation of any applicable law (including, where applicable, COPPA), or in connection with unlawful material (such as material that violates any obscenity, defamation, harassment, privacy, or intellectual property laws); or (2) a manner that would cause a material risk to the security or operations of Adobe or any of its customers, or to the continued normal operation of other Adobe customers;
- (C) copy, use, distribute, republish, download, display, transmit, sell, rent, lease, host, or sub-license the Learning Services;
- (D) offer, use, or permit the use of the Learning Services in a computer service business, third-party outsourcing service, on a membership or subscription basis, on a service bureau basis, on a time-sharing basis, as part of a hosted service, or on behalf of any third party;
- (E) attempt to interact with the operating system underlying the Learning Services, or modify, create derivative works of, adapt, translate, reverse engineer, decompile, or otherwise attempt to discover the source code in, any Adobe Technology. This restriction will not apply to the extent it limits any non-waivable right Customer may enjoy under applicable law; or
- (F) remove, obscure, or alter any notices associated with the Learning Services;

Adobe reserves all other rights not expressly granted in this Agreement.

4. LIMITATION OF LIABILITY

Adobe will not be liable to Customer for any special, indirect, moral, consequential, incidental, punitive, or exemplary damages; loss of profits; loss of reputation, use, or revenue; loss or corruption of data; or interruption of business. Adobe's total liability in any matter arising out of or related to these terms is limited to US \$100 or the aggregate amount that Customer paid for access to the Learning Services during the three-month period preceding the event giving rise to the liability, whichever is larger. This limitation will apply even if Customer has been advised of the possibility of the liability exceeding the amount and notwithstanding any failure of essential purpose of any limited remedy. The limitations and exclusions in this Section 4 apply to the maximum extent permitted by law.

5. WARRANTIES

Adobe disclaims all warranties express or implied, including the implied warranties of non-infringement, merchantability, and fitness for a particular purpose. Adobe makes no commitments about the content within the Learning Services. Adobe further disclaim any warranty that (a) the Learning Services will meet Customer requirements or will be constantly available, uninterrupted, timely, secure, or error-free; (b) the results that may be obtained from the use of the Learning Services will be effective, accurate, or reliable; (c) the quality of the Learning Services will meet Customer expectations; or that (d) any errors or defects in the Learning Services will be corrected.

6. LICENSE COMPLIANCE

If Customer is a business, 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 of the Learning Services (or other Adobe Technology used in conjunction with the Learning Services) comply with the terms of this Agreement. 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. If the verification shows that Customer is using the Learning Services (or other Adobe Technology used in conjunction with the Learning 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 license fees and any applicable related maintenance and support fees within 30 days of invoice date. If use 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.

7. TERM AND TERMINATION

This Agreement applies to each of the Learning Services until the expiration of the applicable License Term or the term for the Learning Services, unless terminated earlier under this Agreement. Customer may stop using the Learning Services at

any time. Termination of the Agreement does not relieve Customer of any obligation to pay outstanding fees. If Adobe terminates this Agreement for reasons other than for cause, then Adobe will make reasonable effort to notify Customer at least 30 days prior to termination via the email address Customer provides with instructions on how to retrieve content. Adobe may, at any time, terminate Customer's right to use and access the Learning Services if:

- (a) Customer breaches any provision of these terms (or act in a manner that clearly shows Customer did not intend to, or are unable to, comply with these terms);
- (b) Customer fail to make the timely payment of fees for the Learning Services, if any;
- (c) Adobe is required to do so by law;
- (d) Adobe elects to discontinue the Learning Services, in whole or in part, (such as if it becomes impractical for Adobe to continue offering Learning Services in Customer's region due to local laws); or
- (e) there has been an extended period of Customer inactivity in a free account.

Upon termination or expiration of this Agreement or any License Term for the Learning Services, the license and associated rights for the Learning Services will immediately terminate. The termination or expiration of this Agreement will not affect any provisions of this Agreement which by their nature survive termination or expiration, including the provisions that deal with the following subject matters: definitions, payment obligations, term and termination, effect of termination, license compliance, limitation of liability, and the "General Provisions" section in these General Terms.

8. GENERAL PROVISIONS

Adobe may assign this Agreement (or a part of it) to its Affiliates or a surviving person under a merger or acquisition of Adobe or the assets of the business to which this Agreement relates, upon written notice to Customer. Customer may not assign, voluntarily, by operation of law or otherwise, any rights or obligations under this Agreement without the prior, written consent of Adobe. Any (attempted) assignment in derogation of this section will be null and void.

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, labor 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.

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.

Any terms or conditions in a Customer's purchase order or any other related documentation submitted by or on behalf of Customer to Adobe do not form part of this Agreement and are void, unless otherwise expressly agreed in writing and signed by both Customer and Adobe.

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. 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. 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. Any notice given under this Agreement must be in writing by email to the following addresses (or addresses notified in writing by either Party): to Adobe: ContractNotifications@adobe.com.

Customer acknowledges that the Learning 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.

For US Government end users: Customer acknowledges that Learning Services are "Commercial Item(s)," as that term is defined at 48 C.F.R. section 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as the terms are used in 48 C.F.R. section 12.212 or 48 C.F.R. section 227.7202, as applicable. Customer agrees, consistent with 48 C.F.R. section 12.212 or 48 C.F.R. sections 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (A) only as Commercial Items; and (B) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished rights are reserved under the copyright laws of the United States.