

1. DEFINITIONS

- 1.1 **“Adobe”** means one or more of the following, as the context requires:
- (A) 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 Inc., located in San Jose, California.
 - (B) If the Products and Services are licensed in Australia: Adobe Systems Software Ireland Limited (located in Ireland), in its capacity as authorized agent for Adobe Systems Pty Ltd.
 - (C) If the Products and Services are licensed in all other countries: Adobe Systems Software Ireland Limited, located in Ireland.
- 1.2 **“Adobe Technology”** means technology owned by Adobe or licensed by 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.
- 1.3 **“Affiliate”** means, for a Party, any other entity 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 entity through at least 50% of the shares, voting rights, participation, or economic interest in this entity.
- 1.4 **“Agreement”** means these Partner General Terms, the applicable addendum and the Partner Sales Order, if any.
- 1.5 **“Claim”** means a claim, action or legal proceeding filed against a Party.
- 1.6 **“Confidential Information”** means non-public or proprietary information about a disclosing Party’s business related to technical, commercial, financial, employee, or planning information that is disclosed by the disclosing Party to the other Party in connection with this Agreement, and is (A) identified in writing as confidential at the time of disclosure, whether in printed, textual, graphic, or electronic form; or (B) disclosed in non-tangible form, identified as confidential at the time of disclosure, summarized in a writing labeled as “confidential”, and delivered to the receiving Party within 15 days after disclosure. Any Adobe Technology and the terms and conditions of this Agreement will be deemed Confidential Information of Adobe without any marking or further designation. Any Customer Data (as defined in the applicable addendum) will be deemed Confidential Information of Partner’s Customer without any marking or further designation. “Confidential Information” does not include information that: (1) has become public knowledge through no fault of the receiving Party; (2) was known to the receiving Party, free of any confidentiality obligations, before its disclosure by the disclosing Party; (3) becomes known to the receiving Party, free of any confidentiality obligations, from a source other than the disclosing Party; or (4) is independently developed by the receiving Party without use of Confidential Information.
- 1.7 **“Documentation”** means the technical usage and product descriptions of the Products and Services published by Adobe on <https://helpx.adobe.com/product-descriptions.html>, which may be updated from time to time. “Documentation” does not include any forum or content by any third party.
- 1.8 **“Effective Date”** means the date of last signature of the Partner Sales Order.
- 1.9 **“Managed Services”** means the technology services hosted by or on behalf of Adobe as a dedicated instance, as set out in the Partner Sales Order.
- 1.10 **“On-demand Services”** means the technology services hosted by or on behalf of Adobe as a shared instance, as set out in the Partner Sales Order.

- 1.11 **"On-premise Software"** means the Adobe software that is deployed by Partner or Partner's Customer on behalf of Partner's Customer on hardware designated by or on behalf of Partner's Customer, as set out in the Partner Sales Order.
- 1.12 **"Partner"** means an entity that is appointed by Adobe to process orders from third-party end users or an Adobe reseller of Products and Services to third-party end users.
- 1.13 **"Partner's Customer"** or **"Customer"** means the third party end customer of Partner listed in the Partner Sales Order and as further described in the applicable addendum.
- 1.14 **"Partner General Terms"** (or **"PGT"**) means these partner general terms, but not any reseller or fulfillment addendum associated with these partner general terms.
- 1.15 **"Partner Sales Order"** means the sales order form or other written document for the Products and Services that is executed by Adobe and Partner.
- 1.16 **"Party"** means Adobe or Partner, as applicable.
- 1.17 **"Products and Services"** means one or more of the following: On-premise Software, On-demand Services, Managed Services or Professional Services generally made available to Adobe enterprise customers.
- 1.18 **"Professional Services"** means any consulting, training, implementation, or technical services provided by Adobe, as set out in the Partner Sales Order.
- 1.19 **"Report"** means any graphical or numerical display of data that contains Adobe's proprietary design, look and feel, and is generated by the On-demand Services or Managed Services.

2. INTELLECTUAL PROPERTY. All Adobe Technology is and will remain the sole and exclusive property of Adobe, its licensors and/or suppliers (as applicable) and will be returned to Adobe promptly at Adobe's request, together with any copies thereof. Except for the express limited rights granted under this Agreement, no right, title or interest in or to any of the Adobe Property is granted, transferred or otherwise provided by this Agreement. Adobe and its licensors and/or suppliers reserves all rights not expressly granted to Partner

3. CONFIDENTIALITY

- 3.1 **No Use or Disclosure.** The receiving Party will only use Confidential Information for the purposes of or as permitted under 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 section 3 (Confidentiality)..
- 3.2 **Protection of Information.** The receiving Party will treat Confidential Information with the same degree of care as it treats its own information of similar sensitivity, but never with less than reasonable care.
- 3.3 **Permitted Disclosure.** The receiving Party may disclose Confidential Information: (A) as approved in a writing signed by the disclosing Party; (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 in the case of (B) and (C), only if the receiving Party promptly notifies the disclosing Party of the details of the required disclosure and gives the disclosing Party all assistance reasonably required by the disclosing Party to enable the disclosing Party to take available steps to prevent the disclosure or to ensure that disclosure occurs subject to an appropriate obligation of confidence.
- 3.4 **Responsibility for Representatives and Affiliates.** For the purpose of this section 3 (Confidentiality) and the definition of "Confidential Information", a reference to a Party means a Party and its Affiliates. The receiving Party is responsible for ensuring that its representatives and Affiliates fully comply with the obligations of the receiving Party under this section.

4. WARRANTIES; WARRANTY DISCLAIMERS

- 4.1 Any applicable Adobe warranties related to the Products and Services will be contained in the applicable addendum.
- 4.2 Adobe is not bound by any offer, acceptance, representation, or warranty made by Partner to any third party with respect to Adobe or the Products and Services that has not been authorized by Adobe. Partner has no expectation of obtaining any anticipated amount of profits, revenue, sales or other compensation as a result of entering into this Agreement. Upon termination or expiration of this Agreement, Adobe will not be liable for any compensation, reimbursement, damages, lost profits or other payments related to any anticipated sales, expenditures, investments, leases or other commitments in connection with the business or goodwill of Partner.
- 4.3 Adobe does not endorse, warrant or guarantee the performance of any Partner's products or services.

5. ANTI-PIRACY / UNAUTHORIZED PRODUCT RESTRICTIONS

- 5.1 Partner agrees that it will not deal in illegal copies of Products and Services or Unauthorized Products, as defined below. Adobe reserves the right, at its sole option, to terminate this Agreement with immediate effect, if Partner is found to be dealing in illegal copies of Products and Services or Unauthorized Products. Such termination would be without prejudice to Adobe's other remedies. For the purpose of this section, "Unauthorized Products" means:
 - (A) pirated copies of Products and Services;
 - (B) Products and Services obtained from a source other than an Adobe-authorized distributor; and/or
 - (C) Products and Services that have been diverted from an intended channel into another channel, and/or that may have been made to appear as full commercial versions and/or to obscure or disguise the fact that they were initially distributed by Adobe as educational software products, governmental sales products, upgrades, OEM versions.
- 5.2 In the event that Partner becomes aware of any dealings in illegal copies of Products and Services or Unauthorized Products, Partner must promptly report such dealings to Adobe and cooperate with Adobe in any investigations and/or remedial measures taken in relation to such dealings.

6. THIRD PARTY CLAIMS

- 6.1 Partner will defend, at its expense, any Customer complaint and any third party Claim ("**Third Party Claim**") against Adobe during the term of this Agreement. Partner will pay Adobe for any damages finally awarded by a court of competent jurisdiction (or settlement amounts agreed to in writing by Partner) that arise in connection with:
 - (A) negligence, misrepresentation, or error or omission on the part of Partner or its Affiliates, including misrepresentations made regarding Adobe or its Products and Services;
 - (B) any warranty, term, condition, representation or promise made by Partner or its Affiliates to any third party regarding Adobe or its Products and Services that is not specifically authorized in writing by Adobe; and
 - (C) taxes imposed on Adobe relating to this Agreement, including the interest and penalties thereon.
- 6.2 **Sole and Exclusive Remedy.** The remedies in this section are Adobe's sole and exclusive remedies regarding the subject matter giving rise to any Claims described in this section.

7. LIMITATION OF LIABILITY

- 7.1 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 shall not exceed the greater of \$1,000,000 USD or an amount equal to the aggregate of fees payable by Partner under the Agreement during the 12 months before the initial Claim.

- 7.2 Neither Party will be liable to the other Party 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.
- 7.3 Sections 7.1 and 7.2:
- (A) 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
 - (B) Do not apply in any breach of any confidentiality obligations of this Agreement; any violation of intellectual property rights or applicable law or regulation by Partner; or Partner's failure to pay any amounts owing to Adobe under this Agreement.
- 7.4 Nothing in this Agreement excludes or restricts any right or remedy, or any guarantee, warranty or other term or condition, imposed by applicable law which cannot lawfully be excluded or limited.

8. **PUBLICITY.** Publicity, including press releases, developed by either Party that refer to this Agreement or the relationship between the Parties will be subject to prior written approval by the other Party, except factual descriptions of the relationship between the Parties in presentations.

9. **BUSINESS CONDUCT.** During the term of this Agreement, Partner will conduct its activities in an ethical manner and in a way that reflects favourably on itself and Adobe. Without limitation to the generality of the foregoing, Partner will at all times comply with the principles outlined in the Adobe Business Partner Code of Conduct set forth at http://www.adobe.com/corporateresponsibility/pdfs/adobe_business_partner_code_of_conduct.pdf (or successor website thereto) and incorporated into this Agreement by reference.

10. TERM AND TERMINATION

- 10.1 **Term.** This Agreement applies to each of the Products and Services from the Effective Date until the expiration of the applicable license term in the Partner Sales Order or the term of Professional Services in the Partner Sales Order, unless terminated earlier under this Agreement.
- 10.2 **Termination for Cause**
- (A) 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) If a Party is in breach of any confidentiality provisions in 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) Adobe may terminate this Agreement, in whole or in part, immediately upon written notice to Partner, if required by law and for any breach of its intellectual property rights.
- 10.3 **Effect of Termination.** Upon termination or expiration of this Agreement, Partner shall have no further rights or obligations under this Agreement, unless otherwise provided in this Agreement.
- 10.4 **Survival.** 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, intellectual property, confidentiality, data protection and privacy, limitation of liability, term and termination, payment obligations and the "General Provisions" section of these Partner General Terms.

11. GENERAL PROVISIONS

- 11.1 **Additional Disclosure Obligations.** Partner is solely and exclusively responsible for ensuring compliance with any and all obligations of Partner which may potentially arise under any applicable regulation, legislation, contract or otherwise, to disclose to Partner's Customer(s) and/or potential Partner's Customers (as applicable) including if Partner enters into a reseller or fulfillment-type addendum to this Agreement with Adobe, Partner's status as an Adobe reseller or fulfillment partner in addition to any other role which Partner may be playing in the applicable transaction with such customer(s) and/or potential customer(s).
- 11.2 **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) to Adobe: ContractNotifications@adobe.com, and to Partner, at Partner's email address stated in the Partner Sales Order.
- 11.3 **Governing Law and Venue.** This Agreement (including the arbitration agreement contained in this clause) and all matters relating to this Agreement, including its validity and interpretation, is governed by and construed in accordance with the substantive laws in force in:
- (A) the State of California, if Partner's Location is in the United States, Canada, or Mexico;
 - (B) Japan, if Partner's Location is Japan;
 - (C) Singapore, if Partner's Location is in a member state of the Association of Southeast Asian Nations (ASEAN), mainland China, Hong Kong, Macau, Taiwan, South Korea, Sri Lanka, Bangladesh or Nepal;
 - (D) the state of New South Wales, Australia if Partner's Location is in Australia or New Zealand; or
 - (E) England, if Partner's Location is in any other country not above named.

The parties hereby submit to the jurisdiction of the respective courts of Santa Clara County, California when California law applies, Tokyo District Court in Japan when Japanese law applies, the competent courts of London, England, when the law of England applies, and the courts of New South Wales, Australia when the laws of New South Wales, Australia applies.

If the laws of Singapore apply, 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 administered by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause.

- (1) The seat of the arbitration will be Singapore.
- (2) The tribunal will consist of one arbitrator.
- (3) The language of the arbitration will be English.

This Agreement will not be governed by the conflict of laws rules of any jurisdiction, UCITA, or the United Nations Convention on Contracts for the International Sale of Goods, the application of which are expressly excluded.

- 11.4 **Severability.** If any term of this Agreement is held invalid or unenforceable for any reason, the remainder of the provision will continue in full force and effect.
- 11.5 **Parties Intentions.**
- (A) 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 use of the term "**partner**", or any similar term, is for convenience only and refers only to the spirit of cooperation that exists between Partner and Adobe and does not imply, describe or create any legal partnership or any responsibility by one for the obligations or liabilities of the other.
 - (B) Notwithstanding the foregoing, to the extent that the Commercial Agents (Council Directive) Regulations 1993 ("**Regulations**") applies to this Agreement under English law, Partner may under certain circumstances (subject to Regulations 17(9) or 18) be entitled to an indemnity on termination of the Agreement or any part thereof. The Parties expressly agree that no compensation (as defined in the Regulations) shall be payable to Partner upon termination of the Agreement or any part thereof.

- (C) Each Party shall at all times remain free to decline a specific opportunity at its sole discretion and may work with other product or services providers. Nothing in this Agreement shall be construed as creating any type of exclusive relationship among the Parties. It is expressly understood that the Parties may independently market to, or have relationships with customers or other entities such as systems integrators, OEMs, software or hardware suppliers, distributors, agencies, resellers and solution channel partners.

11.6 Verification and Audit. During the term of this Agreement and for at least two years after the expiration or termination of this Agreement:

- (A) Partner agrees to maintain a complete, clear and accurate record of all matters pertaining to the Products and Services, and this Agreement; and
- (B) Partner shall permit either Adobe or an independent third party (who is nominated by Adobe and bound by reasonable confidentiality terms), to audit and inspect its books, records and all other relevant information and documents pertaining to the Products and Services under this Agreement, to ensure compliance by Partner of the obligations contained in this Agreement.

Any such inspection and audit will be conducted during Partner's regular business hours upon 7 days' prior written notice to Partner, and will not interfere with Partner's business activities. Adobe shall bear the expense of such audit, unless Partner is found to be non-compliant with this Agreement, in which case the audit shall be at the expense of Partner. If such audit shows that Partner is using the Products and Services in any way not permitted under this Agreement, Adobe may immediately terminate this Agreement. If the audit reveals any improper or excessive use of the Products and Services, Adobe will provide written notice detailing such use and Partner will have 30 days to pay Adobe for such use.

11.7 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.

11.8 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.

11.9 Assignment

- (A) Partner may assign this Agreement in its entirety to a surviving person or entity upon a merger or acquisition of Partner, upon written notice to Adobe, if the assignment does not expand the scope of any licenses granted in the Products and Services.
- (B) 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 Partner.
- (C) Except as provided in this section 11.9 (Assignment), Partner may not assign, voluntarily, by operation of law or otherwise, any rights or obligations under this Agreement without the prior, written consent of Adobe.
- (D) Any attempted assignment in derogation of this section will be null and void.

11.10 Force Majeure. Neither Party shall 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.

11.11 Injunctive Relief. Actual or threatened breach of certain sections of this Agreement (such as, without limitation, provisions on intellectual property (including ownership), license, data protection and confidentiality) may cause immediate, irreparable harm that is difficult to calculate and cannot be remedied by the payment of damages alone. Either Party will be entitled to seek preliminary and permanent injunctive relief and other equitable relief for any such breach.

- 11.12 **Compliance with Laws; Foreign Corrupt Practices Act.** Partner shall comply with all applicable laws or regulations in all countries in which Partner conducts business. The fact that in some countries certain laws prohibiting particular conduct are not enforced in practice, or that violation is not subject to public criticism or censure, will not excuse noncompliance with those laws. Partner 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 that Partner will comply with them.
- 11.13 **Order of Precedence.** The Partner Sales Order will prevail over the applicable addendum, which will prevail over the Partner General Terms (to the extent of any inconsistency).
- 11.14 **Counterparts.** The Agreement may be executed in one or more counterparts, each of which constitutes an original and all of which taken together shall constitute one and the same Agreement, and facsimile and electronic or digital signatures shall be of equal effect and validity as signatures on original copies.