



## Partner Sales Order

**Customer** CITY AND COUNTY OF DENVER  
**Agreement Number** DR2493482  
**Currency** USD

### Adobe Inc.

#### Products and Services Pricing Detail:

#### Adobe On-demand Services

Except as otherwise specified in this Sales Order, these On-Demand Services may be renewed for successive periods of 12 months upon mutual agreement of the Parties. Support Services are described at: <https://helpx.adobe.com/support/programs/support-policies-terms-conditions.html>

#### BASE YEAR

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
01	38053546	ANALYTICS PRIME:OD	Advance   Annually - In	10.00	Million SERVER CALLS Per Month	1 January 2020	31 December 2020	333.33	39,999.60
02	38049701	ADOBE TARGET STANDARD	Advance   Annually - In	10.00	Million PAGE VIEWS Per Year	1 January 2020	31 December 2020	1,000.00	10,000.00

#### OPTION YEAR 1

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
03	38053546	ANALYTICS PRIME:OD	Advance   Annually - In	10.00	Million SERVER CALLS Per Month	1 January 2021	31 December 2021	333.33	39,999.60
04	38049701	ADOBE TARGET STANDARD	Advance   Annually - In	10.00	Million PAGE VIEWS Per Year	1 January 2021	31 December 2021	1,000.00	10,000.00

#### OPTION YEAR 2

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
05	38053546	ANALYTICS PRIME:OD	Advance   Annually - In	10.00	Million SERVER CALLS Per Month	1 January 2022	31 December 2022	333.33	39,999.60
06	38049701	ADOBE TARGET STANDARD	Advance   Annually - In	10.00	Million PAGE VIEWS Per Year	1 January 2022	31 December 2022	1,000.00	10,000.00

#### ANALYTICS PRIME:OD:

Fees associated with Adobe Analytics Prime Primary Server Calls in excess of the Annual Primary Server Call commitment shall be billed @ 333.33 USD CPMM. These fees are billed monthly in arrears as incurred. For a period up to 30 days prior to the Start Date (the "Implementation Period"), but in no event earlier than the Effective Date, Customer is granted a limited license to access the Products and Services for the sole purpose of implementation and testing at no additional cost to Customer, subject to all other terms and conditions of the Agreement. Further, Adobe may provide consulting services, as further described in this Sales Order, for Adobe Analytics during the Implementation Period. In the event that Customer does not have a Secondary Server Call Commitment, any Secondary Server Calls generated by Customer shall be billed at 100% of the Primary Server Call Overusage rate set forth above. Such fees are billed monthly in arrears as incurred.

#### ADOBE TARGET STANDARD:

Adobe Target Standard does not include the functionality provided by ADOBE TARGET STANDARD:OD MOBILE APP, which is available separately. Customer agrees to provide Adobe with a measurement report generated by an analytics tool two months prior to the end of each 12 month period of the License Term, in order to verify Customer's actual Annual Page View Traffic ("Actual Page View Traffic"). If Customer's Actual Page View Traffic is higher than the estimated Annual Page View Traffic for the previous year, then Adobe reserves the right to increase the estimated

Annual Page View Traffic for the subsequent year(s) of the License Term to match the Actual Page View Traffic, and increase the annual flat fee for the remainder of the License Term in proportion to the revised estimated Annual Page View Traffic via amendment to the applicable Sales Order. Customer will not receive any credit, reduction in flat fee, or revision of the estimated Annual Page View Traffic if the Actual Page View Traffic for any 12 month period is below the estimated Annual Page View Traffic for the previous year. For a period up to 30 days prior to the Start Date (the "Implementation Period"), but in no event earlier than the Effective Date, Customer is granted at no additional cost a limited license to access the Products and Services for the sole purpose of implementation and testing.

## Adobe Managed Services

Except as otherwise specified in this Sales Order, these Managed Services terminate on the identified License Term End Date. The dates set forth in the pricing table represent the best estimates of the License Term Start Date and License Term End Date; such dates will be adjusted to be the later of the estimated dates or the actual delivery date of login credentials to access the Products and Services. Support Services are described at:

<https://helpx.adobe.com/support/programs/support-policies-terms-conditions.html>

### BASE YEAR

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
07	38054739	AEM ASSETS:MS FOR SITES/FORMS CUSTOMERS	Advance   Annually - In	1.00	Each Per Deployment Per Year	1 January 2020	31 December 2020	22,476.00	22,476.00
08	38054704	AEM SITES:MS ENTERPRISE 99.9%	Advance   Annually - In	1.00	Each BASE Per Year	1 January 2020	31 December 2020	303,292.00	303,292.00
09	38054750	AEM:MS ADDITIONAL CONCURRENT USER	Advance   Annually - In	1.00	Each Per Deployment Per Year	1 January 2020	31 December 2020	5,482.00	5,482.00
10	38055792	AEM:MS DEV/QA	Advance   Annually - In	3.00	Each INSTANCE Per Year	1 January 2020	31 December 2020	7,675.00	23,025.00
11	58051770	AEM:MS INCREASE INSTANCE BY 1 VCPU	Advance   Annually - In	4.00	Each INSTANCE Per Year	1 January 2020	31 December 2020	2,741.00	10,964.00

### OPTION YEAR 1

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
12	38054739	AEM ASSETS:MS FOR SITES/FORMS CUSTOMERS	Advance   Annually - In	1.00	Each Per Deployment Per Year	1 January 2021	31 December 2021	22,476.00	22,476.00
13	38054704	AEM SITES:MS ENTERPRISE 99.9%	Advance   Annually - In	1.00	Each BASE Per Year	1 January 2021	31 December 2021	363,292.00	363,292.00
14	38054750	AEM:MS ADDITIONAL CONCURRENT USER	Advance   Annually - In	1.00	Each Per Deployment Per Year	1 January 2021	31 December 2021	5,482.00	5,482.00
15	38055792	AEM:MS DEV/QA	Advance   Annually - In	3.00	Each INSTANCE Per Year	1 January 2021	31 December 2021	7,675.00	23,025.00
16	58051770	AEM:MS INCREASE INSTANCE BY 1 VCPU	Advance   Annually - In	4.00	Each INSTANCE Per Year	1 January 2021	31 December 2021	2,741.00	10,964.00

### OPTION YEAR 2

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
17	38054739	AEM ASSETS:MS FOR SITES/FORMS CUSTOMERS	Advance   Annually - In	1.00	Each Per Deployment Per Year	1 January 2022	31 December 2022	22,476.00	22,476.00
18	38054704	AEM SITES:MS ENTERPRISE 99.9%	Advance   Annually - In	1.00	Each BASE Per Year	1 January 2022	31 December 2022	363,292.00	363,292.00
19	38054750	AEM:MS ADDITIONAL CONCURRENT USER	Advance   Annually - In	1.00	Each Per Deployment Per Year	1 January 2022	31 December 2022	5,482.00	5,482.00
20	38055792	AEM:MS DEV/QA	Advance   Annually - In	3.00	Each INSTANCE Per Year	1 January 2022	31 December 2022	7,675.00	23,025.00
21	58051770	AEM:MS INCREASE INSTANCE BY 1 VCPU	Advance   Annually - In	4.00	Each INSTANCE Per Year	1 January 2022	31 December 2022	2,741.00	10,964.00

## Creative Cloud, Document Cloud and Software

Except for perpetual licenses, these licenses to Products and Services and any applicable Support terminate on the identified License Term End Date. The dates set forth in the pricing table represent the best estimates of the License Term Start Date and License Term End Date; such dates will be adjusted to be the later of the estimated dates or the actual delivery date of login credentials to access the Products and Services. "Support" services for the Products and Services are described here: <https://helpx.adobe.com/support/programs/support-policies-terms-conditions.html>.

### BASE YEAR

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
22	38054655	AEM DEV LICENSE FOR MS FULFILLMENT	Advance   Total - In	1.00	EACH One-Time	1 January 2020	31 December 2020	0.00	0.00

### OPTION YEAR 1

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
23	38054655	AEM DEV LICENSE FOR MS FULFILLMENT	Advance   Total - In	1.00	EACH One-Time	1 January 2021	31 December 2021	0.00	0.00

### OPTION YEAR 2

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	License Term Start Date	License Term End Date	Unit Price	Total Fees
24	38054655	AEM DEV LICENSE FOR MS FULFILLMENT	Advance   Total - In	1.00	EACH One-Time	1 January 2022	31 December 2022	0.00	0.00

AEM DEV LICENSE FOR MS FULFILLMENT:  
This product consists solely of On-premise Software.

## Adobe Professional Services

Customer will be responsible for all reasonable travel expenses, hotel accommodations, and any other out of pocket expenses properly and reasonably incurred by Adobe in connection with the Services (unless otherwise provided in this Sales Order). Such expenses will be charged to Customer at cost. Adobe will provide the Professional Services on a mutually agreeable schedule but in no event sooner than the identified start date.

### BASE YEAR

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	Start Date	End Date	Unit Price	Total Fees
25	38055280	PREMIER SUPPORT BASIC:NS	Advance   Annually - In	1.00	Each Per Year	1 January 2020	31 December 2020	60,000.00	60,000.00

### OPTION YEAR 1

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	Start Date	End Date	Unit Price	Total Fees
26	38055280	PREMIER SUPPORT BASIC:NS	Advance   Annually - In	1.00	Each Per Year	1 January 2021	31 December 2021	80,000.00	80,000.00

### OPTION YEAR 2

Line Number	SKU	Product Description	Billing Cycle	Quantity	Unit of Measure	Start Date	End Date	Unit Price	Total Fees
27	38055280	PREMIER SUPPORT BASIC:NS	Advance   Annually - In	1.00	Each Per Year	1 January 2022	31 December 2022	80,000.00	80,000.00

#### PREMIER SUPPORT BASIC:NS:

Premier Support customers will receive a named Adobe support contact, a named Adobe Technical Account Manager, and 80 hours of Field Services. Adobe Premier Support services will be available for one mutually selected Adobe Experience Cloud product in one Customer business unit. A detailed description of Premier Support is available at:

<http://www.images.adobe.com/content/dam/acom/en/legal/terms/enterprise/pdfs/SOW-PremierSupport-FEB282019-WW.pdf>. Premier Support will be performed remotely unless stated otherwise in this Sales Order. If any Premier Support services are requested to be delivered on-site at Customer's premises, Customer will reimburse Adobe for any incurred travel related expenses.

Summary of Fees

BASE YEAR Fees:	475,238.60
OPTION YEAR 1 Fees:	555,238.60
OPTION YEAR 2 Fees:	555,238.60

## Sales Order Terms and Conditions

1. As of the Base Year License Term Start Date set forth above ("Start Date"), this Sales Order terminates, replaces and novates the existing Adobe Sales Orders under Adobe Agreement Number DR2042944 (ECM# 00688863) made effective between Partner and Adobe, Inc. on November 1, 2017 ("Old Agreement"). For Purposes of the Customer's financial tracking system and other accounting purposes, this Agreement is considered the First Amendment to Contract control number 201417941 in the legacy system. As of the Start Date, Customer will be entitled to a credit under the Old Agreement(s) for invoiced but unused fees. For Products and Services that are to be credited back to Customer (rather than delivered to Customer), the calculation of such credit will be based on the unused portion of the invoiced fees for the Products and Services provided to Customer under the Old Agreement(s) as of the Start Date. For the avoidance of doubt, this term applies to the Analytics Prime license (Line Number 01) as the Customer's Old Agreement includes autorenewal language.
2. All Products and Services are provided under the Adobe Enterprise Licensing Terms attached hereto as Attachment A and available here: <http://www.adobe.com/legal/terms/enterprise-licensing.html> including the General Terms and the applicable Product Specific Licensing Terms (the "Agreement").
3. Notwithstanding anything to the contrary in the Licensing Terms, the following terms shall apply to this transaction and shall take precedence, in the event of conflict, over the Licensing Terms:
  - A. COMPLIANCE WITH APPLICABLE LAWS AND CITY POLICIES. Adobe will comply with all applicable laws in performing Services under this Agreement. Any Adobe personnel visiting City's facilities will comply with all applicable City policies regarding access to, use of, and conduct within such facilities. City will provide copies of such policies to Adobe upon request.
  - B. Warranty of Authority. Each party represents and warrants that it has the right to enter into this Agreement. Adobe represents and warrants that it has the unrestricted right to provide the Services, and that it has the financial viability to fulfill its obligations under this Agreement. Adobe represents, warrants and agrees that the Services shall be free and clear of all liens, claims, encumbrances or demands of Third Parties. Adobe represents and warrants that it has no knowledge of any pending or threatened litigation, dispute or controversy arising from or related to the Services. This warranty shall survive the expiration or termination of this Agreement.
  - C. Third Party Warranties and Indemnities. Adobe will assign to City all Third Party warranties and indemnities that Adobe receives in connection with any products provided to City. To the extent that Adobe is not permitted to assign any warranties or indemnities through to City, Adobe agrees to specifically identify and enforce those warranties and indemnities on behalf of City to the extent Adobe is permitted to do so under the terms of the applicable Third Party agreements.
  - D. Adobe acknowledges that any responses, materials, correspondence, documents or other information provided to City are subject to applicable state and federal law, including the Colorado Public Records Act, and that the release of Confidential Information in compliance with those acts or any other law will not constitute a breach or threatened breach of this Agreement.
  - E. Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed FIVE MILLION FOUR THOUSAND TWO HUNDRED EIGHTY SEVEN DOLLARS AND THIRTY EIGHT CENTS(\$5,004,287.38) (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Adobe beyond that specifically described in this Sales Order. Any services performed beyond those in this

Sales Order are performed at Adobe's risk and without authorization under the Agreement.

- F. The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple- fiscal year direct or indirect debt or financial obligation of the City. All travel expenses incurred by Adobe, must be agreed to by the City prior to being incurred. The City is exempt from payment of taxes and shall provide Adobe a tax exemption certificate.
- G. Examination of Records: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Contractor, involving transactions related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations subject to the following:
  - i. Provide Adobe with assurance that the Audit will be conducted with the following conditions: (i) at least 30 days' notice shall be provided prior to audit; (ii) the audit shall be performed during regular business hours; (iii) the audit shall not jeopardize or threaten to jeopardize the confidentiality of Adobe data; (iv) no audit software will be installed in Adobe's environment; (v) audit will be conducted no more frequently than once per year; and (vi) avoid unnecessary disruption of Adobe's operations and unnecessary interference with Adobe's ability to perform the services.
  - ii. The audit will be conducted at the customer's expense.
  - iii. Following any audit, Customer shall conduct an exit conference with Adobe to obtain factual concurrence with the issues identified in the review. Customer shall comply with Adobe's physical and information security procedures
  - iv. Customer shall comply with Adobe's physical and information security procedures.
- H. The License Term for the Products and Services extends for twelve months ("Base Year") and may be renewed for up to two successive one-year terms (each, an Option Year) for such fees set forth in the Products and Services Pricing Detail, provided the volume does not decrease. Customer may exercise an option to renew the License Term for the same quantities for all of the identified Products and Services for an Option Year by submitting a purchase order to Adobe at least thirty days prior to the expiration of the then current License Term. If Customer desires to renew the License Term (or exercise an Option Year) with changes in the volume commitments or to the identified Products and Services, then Adobe and Customer must enter into an addendum to this Sales Order and such addendum may reflect revised unit pricing.
- I. Governing Law: The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Any provisions in the Licensing Terms selecting a particular judicial forum or form of alternative dispute resolution for resolving claims relating to the Agreement are hereby deleted.

- J. No Discrimination in Employment: In connection with the performance of work under the Agreement, the Adobe may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Adobe shall insert the foregoing provision in all subcontracts.
- K. Electronic Signatures and Electronic Records: Adobe consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.
- L. In compliance with applicable law, Customer does not agree to pay any costs, fees, or damages arising from claims against Adobe relating to use of the software by the Customer. Therefore, Customer shall not have any indemnity obligations to Adobe relating to use or distribution of the software by Customer and its contractors, subcontractors and assigns. Any contrary provisions in the Licensing Terms are hereby deleted. Notwithstanding, Customer acknowledges that Adobe is not responsible for any liabilities, losses, damages, action or claims, including all costs and expenses associated therewith, including attorney's fees ( "Losses") arising out of or related to its use or distribution of the software, including use of a Certificate Authority, by Customer and its contractors, subcontractors and assigns.
- M. In addition to the indemnity obligations under the Licensing Terms, Adobe will defend Customer against any claim or lawsuit by a third party (a "Claim") to the extent that such Claim alleges bodily injury, death, or damage to real property or tangible physical equipment, proximately caused by Adobe in the course of performing this Agreement, and will indemnify Customer for all judgments finally awarded against Customer by a court of competent jurisdiction, or agreed to in a written settlement agreement signed by Adobe, arising out of such Claim. As an express condition to Adobe's obligation under this Section, Customer must: (i) promptly upon learning of or receiving a claim, notify Adobe in writing; (ii) grant Adobe the exclusive right to control and the authority to settle any claim, provided, however, that Customer shall have the right to participate in the matter at its own expense; (iii) provide Adobe, at Adobe's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim; and (iv) not admit fault or liability on the part of Adobe or of itself. Adobe will not be bound by any settlement or compromise that Customer enters into without Adobe's express prior written consent. This provision is not subject to or limited by Section 11.2 of the General Terms.
- N. Section 11.2 of the General Terms is replaced with the following: "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 is limited to an amount equal to three (3) times the aggregate of the fees that must be paid by Customer under this Agreement during the 12 months before the initial Claim."
- O. Insurance:
  - i. General Conditions: Adobe agrees to maintain the following insurance covering operations, goods or services provided pursuant to this Agreement.

Adobe shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, and during any warranty period. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-" VIII or better. Adobe or its designee will endeavor to provide thirty (30) days prior notification to the City in the event an insurer cancels any of the required policies herein. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement.

Adobe shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement do not lessen or limit the liability of the Adobe. The Adobe shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary.

- ii. Proof of Insurance: Adobe may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Adobe will provide an ACORD certificate issued by its insurance agent or broker within seven (7) business days after full execution of this Agreement evidencing the required coverages and referencing the City's contract number. The City's acceptance of a certificate of insurance shall not act as a waiver of the City's rights or remedies under this Agreement. In the event of a claim, the City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.
- iii. Additional Insureds: For Commercial General Liability and Excess Liability/Umbrella, Adobe insurer(s) shall include the City and County of Denver, its elected and appointed officials, and employees as additional insured when loss or damage is a direct result of Adobe.
- iv. Waiver of Subrogation: For coverages required under this Agreement, Adobe's insurer shall waive subrogation rights against the City with the exception of coverages in v, vii and viii below when loss or damage is a direct result of Adobe.
- v. Workers' Compensation/Employer's Liability Insurance: Adobe shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
- vi. Commercial General Liability: Adobe shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- vii. Business Automobile Liability: Adobe shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit, and in aggregate, applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement, if applicable.
- viii. Technology Errors & Omissions: Adobe shall maintain Technology Errors and Omissions insurance including network security, privacy liability, and claims arising out of any negligent act, error or omission in rendering or failure to



render professional services or technology-based products with limits of \$1,000,000 per claims- made and \$1,000,000 annual aggregate.

- ix. Adobe shall cause all subcontractors, sub-consultants, and independent Adobes providing technology services required by this Agreement to adhere to all of the insurance requirements contained herein.
  - x. Adobe agrees to provide proof of insurance for all such subcontractors, sub-consultants, and independent contractors upon request by the City.
- 4. Customer agrees to purchase the Products and Services set out in the Products and Services Pricing Detail section. All pricing and discounts described in this Sales Order are contingent upon Customer's execution and return of this Sales Order no later than 15 November 2019 (unless countersigned by Adobe).
  - 5. All fees will be invoiced beginning on the applicable Start Date in accordance with the Billing Cycle, as noted in the Products and Services Pricing Detail section. Payment terms are Net 30 Days and will be measured from the date of invoice and shall be paid pursuant to Customer's Prompt Payment Ordinance. Invoicing: Adobe must submit an invoice which shall include the City contract number, clear identification of the deliverable that has been completed, and other information reasonably requested by the City. Payment on all uncontested amounts shall be made in accordance with the City's Prompt Payment Ordinance.
  - 6. The Parties agree to mutually create and issue a press release announcing Customer's use of the Adobe Products and Services within sixty (60) days of the last date of the Effective Date.
  - 7. Purchase Order (PO) required? Yes → tick: ☐ Customer may submit the purchase order to Adobe via email at [uspo@adobe.com](mailto:uspo@adobe.com). If this box is not ticked, Adobe may invoice directly using the Adobe Agreement Number as the reference number on any applicable invoices.

By signing below, each Party acknowledges that it has carefully read and fully understood this Agreement, and each agrees to be bound by the terms of this Agreement. This Agreement becomes effective upon the date of last signature (the "Effective Date"). The individuals signing this Agreement represent that they have the authority to bind the respective Parties to the terms of this Agreement.

**Adobe Inc. (ADUS)**

345 Park Avenue, San Jose CA 95110, United States

**CITY AND COUNTY OF DENVER**201 WEST COLFAX AVE DEPT 301,  
DENVER, CO 80202-5330 UNITED STATES\_\_\_\_\_  
Authorized Signature\_\_\_\_\_  
Authorized Signature\_\_\_\_\_  
Print Name\_\_\_\_\_  
Print Name\_\_\_\_\_  
Title\_\_\_\_\_  
Title\_\_\_\_\_  
Date\_\_\_\_\_  
Date

Purchase Order Number:

ECC ID Number: 0001460621

**North America**

<b>End User :</b> 1460621	<b>Bill-To :</b> 0001460621	<b>Ship-To :</b> 1460621
CITY AND COUNTY OF DENVER 201 WEST COLFAX AVE DEPT 301 DENVER, CO, 80202-5330 UNITED STATES	CITY AND COUNTY OF DENVER 201 WEST COLFAX AVE DEPT 301 DENVER, CO, 80202-5330 UNITED STATES	CITY AND COUNTY OF DENVER 201 WEST COLFAX AVE DEPT 301 DENVER, CO, 80202-5330 UNITED STATES
	Invoicing Contact Name: Contact Email: tsfinance@denvergov.org	Customer Admin Name: Contact Email:

**Instructions for sending signed original agreements to Adobe:**

**Please return your signed original agreement per the appropriate instructions below. If you have questions regarding these instructions, please contact your Adobe Account Manager or [Adobe Customer Service](#).**

For Customers located in the United States, Canada and Mexico only please use one of the following methods to return the signed original agreement to Adobe:

Mailing Address	Email	FAX
Mail two signed agreement originals to: Adobe Inc. 345 Park Avenue San Jose, California 95110-2704 USA Attention: Contract Operations Group	Scan and email signed agreement to: *Email: <a href="mailto:rgcordus@adobe.com">rgcordus@adobe.com</a>	FAX signed agreement to: FAX: (801) 437-2883



## Attachment A: Adobe Enterprise Licensing Terms

**GENERAL TERMS (2017v1)****1. DEFINITIONS**

- 1.1 **"Adobe"** means one or both of the following:
- (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 Incorporated, located in San Jose, California.
  - (B) If the Products and Services are licensed in all other countries: Adobe Systems Software Ireland Limited, located in Ireland.
- 1.2 **"Adobe Partner"** means an entity that is appointed by Adobe to process orders from end users, or a reseller of Products and Services to end users.
- 1.3 **"Adobe Technology"** means technology owned by Adobe or licensed to 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.
- 1.4 **"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.
- 1.5 **"Agreement"** means these General Terms, the applicable Product Specific Licensing Terms, and the Sales Order.
- 1.6 **"Claim"** means a claim, action, or legal proceeding filed against a Party.
- 1.7 **"Computer"** means a virtual or physical device for storing or processing data, such as servers, desktop computers, laptops, mobile devices, Internet-connected devices, and hardware products. Where a device contains more than one virtual environment (including virtual machines and virtual processors), each virtual environment will be counted as a separate Computer.
- 1.8 **"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 will be deemed Confidential Information of 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.
- 1.9 **"Customer"** means the entity identified in the Sales Order as "Customer" or otherwise identified in the Sales Order as the end user customer.
- 1.10 **"Customer Content"** means any material, such as audio, video, text, or images, that is imported into the On-demand Services or Managed Services by or on behalf of Customer in connection with Customer's use of the Products and Services, including for collaboration, content delivery, digital publishing, targeted advertising, or indexing.
- 1.11 **"Customer Data"** means any information that is imported by or on behalf of Customer into the On-demand Services or Managed Services from Customer's internal data stores or other third-party data providers, or is collected via the Distributed Code, in connection with Customer's use of the Products and Services.
- 1.12 **"Customer Site"** means any current or future website or application that is owned and operated by Customer, or is hosted or operated by a third party or Adobe on Customer's behalf, and that contains a privacy policy or terms of use governing data collection practices that Customer controls.

- 1.13 “**Distributed Code**” means HTML tags, JavaScript code, object code, plugins, SDKs, APIs, or other code provided by Adobe for use of the On-demand Services or Managed Services.
- 1.14 “**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.
- 1.15 “**Effective Date**” means the effective date stated in the Sales Order.
- 1.16 “**Enterprise Licensing Terms**” means these General Terms and the applicable Product Specific Licensing Terms.
- 1.17 “**Indemnified Technology**” means On-demand Services, Managed Services or On-premise Software (as applicable), paid for by Customer.
- 1.18 “**License Metric**” means the per-unit metrics specified by Adobe concerning the licensed quantities in the Sales Order, to describe the scope of Customer’s license to use the Products and Services.
- 1.19 “**License Term**” means the duration of the license for Products and Services, as stated in the Sales Order, or any shorter term arising from a termination of this Agreement.
- 1.20 “**Managed Services**” means the technology services hosted by or on behalf of Adobe and provided to Customer as a dedicated instance, as set out in the Sales Order.
- 1.21 “**On-demand Services**” means the technology services hosted by or on behalf of Adobe and provided to Customer as a shared instance, as set out in the Sales Order.
- 1.22 “**On-premise Software**” means the Adobe software that is deployed by or on behalf of Customer on hardware designated by Customer, as set out in the Sales Order.
- 1.23 “**Party**” means Adobe or Customer, as applicable.
- 1.24 “**Products and Services**” means the On-premise Software, On-demand Services, Managed Services, or Professional Services, as set out in the Sales Order.
- 1.25 “**Product Specific Licensing Terms**” or “**PSLT**” means the Product Specific Licensing Terms document that describes the additional licensing terms for specific Products and Services.
- 1.26 “**Professional Services**” means any consulting, training, implementation, or technical services provided by Adobe to Customer, as set out in the Sales Order.
- 1.27 “**Report**” means any graphical or numerical display of Customer Data that contains Adobe’s proprietary design, look and feel, and is generated by the On-demand Services or Managed Services.
- 1.28 “**Sales Order**” means the sales order form, statement of work, or other written document for the Products and Services that is either (A) executed between Adobe and Customer; or (B) if no such documents are executed between Adobe and Customer and Customer is purchasing through an Adobe Partner, executed between Customer and the Adobe Partner.
- 1.29 “**Sensitive Personal Data**” is given the meaning under relevant privacy or data protection laws relating to this term or any similar term (such as “sensitive personal information”) used in the applicable laws, or where no such laws apply, means an individual’s financial information (including financial account information), sexual preferences, medical or health information, and personal information of children protected under any child protection laws (such as the personal information defined under the US Children’s Online Privacy Protection Act).
- 1.30 “**User**” means an individual (either an employee or temporary worker of Customer) who may use or access the Products and Services.

## 2. PAYMENT OF FEES

This section 2 applies only if Customer orders the Products and Services directly from Adobe. If Customer orders the Products and Services from an Adobe Partner, payment terms are agreed between Customer and the Adobe Partner.

### 2.1 Payment.

Customer must pay the fees according to the payment terms in the Sales Order. All 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](mailto:sjar@adobe.com) no later than the date of payment. If Customer is not a publicly-traded corporation, upon Adobe's request, Customer will provide the necessary financial documents to allow Adobe to ascertain the credit-worthiness of Customer.

- 2.2 **Failure to Pay.** If Customer fails to pay any amount due under this Agreement according to the payment terms in the Sales Order, 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 Sales Order or suspend or restrict the provision of the Products and Services.
- 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 invoice date, specifying the error. Unless Customer has correctly notified Adobe of the dispute, Customer must reimburse Adobe's reasonable collection costs. Customer must pay the undisputed portions of Adobe's invoice as required by this Agreement.
- 2.4 **Taxes.** Prices do not include applicable taxes. Adobe will invoice Customer for any applicable taxes, and Customer must pay these taxes. Where applicable, Customer must provide a tax-exemption claim to Adobe before placing an order. If Customer is required to withhold income taxes from its payment to Adobe, Customer agrees to send Adobe an official tax receipt within 60 days of payment to Adobe.

### 3. DELIVERY

On-premise Software is deemed to be delivered and accepted by Customer on the earlier of the date the On-premise Software is made available for electronic download or, if applicable, the date that Adobe ships the tangible media (e.g., CD or DVD) containing the On-premise Software FOB origin. On-demand Services or Managed Services are deemed to be delivered and accepted on the License Term start date.

### 4. LICENSE AND RESTRICTIONS

- 4.1 **License Grant for On-demand Services and Managed Services.** Provided Customer purchases the respective Products and Services, Adobe grants Customer, during the License Term, a non-transferable, non-exclusive license, to:
  - (A) permit Users to access the Products and Services and where applicable, Reports, through the applicable interfaces;
  - (B) install, implement, and use the Distributed Code on Customer Sites; and
  - (C) develop and test Customer Customizations (as that term is defined in the PSLT for the applicable Managed Services) to evaluate potential configurations of the Managed Services,all solely in connection with Customer's use of the Products and Services in accordance with the Documentation for its direct beneficial business purposes. Unless otherwise specifically limited in the Sales Order, User login IDs and passwords will be provided to Customer in a quantity mutually agreed upon by Customer and Adobe. Customer must not share its login IDs and passwords, and is responsible for unauthorized access to its login IDs and passwords. Customer must not allow the use of the same login ID simultaneously by two or more Users.
- 4.2 **License Grant for On-premise Software.** Provided Customer purchases the respective Products and Services, Adobe grants Customer, during the License Term, a non-exclusive and non-transferable license to:

- (A) install and use the Products and Services in accordance with the Documentation on Computers for its direct beneficial business purposes, for the platforms and quantities set out in the Sales Order; and
  - (B) make a reasonable number of copies of the On-premise Software for archival purposes and install and use the copies only when the primary copy has failed or is destroyed. Customer may also install copies of the On-premise Software in a disaster recovery environment, on a cold backup basis, for use solely in disaster recovery, and not for production, development, evaluation, or testing. For purposes of the prior sentence, cold backup basis means that the backup copies are completely disconnected from any use environment and not receiving automatic data updates, and those backup copies require a manual activation process to pick up the use environment load during the failure of the primary copies.
- 4.3 **License to Documentation.** Customer may make and distribute copies of the Documentation for use by Users in connection with use of the Products and Services in accordance with this Agreement, but no more than the amount reasonably necessary. Any permitted copy of the Documentation must contain the same copyright and other proprietary notices that appear in the Documentation.
- 4.4 **License Restrictions.** Except as permitted under this Agreement, Customer must not:
- (A) use the Products and 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;
  - (B) copy, use, distribute, republish, download, display, transmit, sell, rent, lease, host, or sub-license the Products and Services;
  - (C) offer, use, or permit the use of the Products and 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;
  - (D) attempt to interact with the operating system underlying the On-demand Services and Managed 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;
  - (E) remove, obscure, or alter any proprietary notices associated with the Products and Services (including any notices in Reports);
  - (F) use any software components, modules, or other services that may be delivered with the Products and Services, but which are not licensed to Customer and identified in the Sales Order; or
  - (G) unbundle any components of the On-premise Software for use on different Computers as the On-premise Software is designed and provided to Customer for use as a single product.
- Adobe reserves all other rights not expressly granted in this Agreement.
- 4.5 **Third Party Providers.** If Customer uses certain features of the Products and Services in conjunction with third party data, products, services, and platforms (e.g. social media platforms, media partners, wireless carriers, or device operating systems), then Customer is responsible for complying with the terms and conditions required by such third party providers, and all such use is at Customer's own risk.
- 4.6 **Regional Service Limitations.** Unless specifically licensed in the Sales Order, Customer is not permitted to use or allow its Users to use the On-demand Services and Managed Services in mainland China, Russia and any other country where usage is restricted by local laws.

## 5. THIRD-PARTY ACCESS

- 5.1 **Use by Affiliates.** Customer may allow its Affiliates to use and access the Products and Services, only if, and as specified in, a Sales Order.
- 5.2 **Outsourcing and Third-Party Access.** Customer may allow a third-party contractor to operate, use or access the Products and Services solely on Customer's behalf, but only if: (A) upon Adobe's request, Customer provides Adobe with the identity of the contractor and the purpose for the contractor's use or access to the Products and Services; and (B) the use or access by the contractor is only for Customer's direct beneficial business purposes.
- 5.3 **Customer Responsibility.** If Customer allows any person or entity to operate, use or access the Products and Services, including under sections 5.1 (Use by Affiliates) or 5.2 (Outsourcing and Third- Party Access), Customer is responsible for ensuring that such person or entity complies with the terms of this Agreement.
- 5.4 **No Additional Rights.** For clarity, the rights granted under this section 5 (Third-Party Access) do not modify the License Metric or increase the number of licenses granted under this Agreement.

## 6. CUSTOMER CONTENT AND DATA

- 6.1 **Ownership.** Customer owns (or where applicable, must ensure it has a valid license to) the Customer Data and Customer Content, subject to Adobe's underlying intellectual property in the Adobe Technology.
- 6.2 **Permitted Use.** Customer grants Adobe and its Affiliates a non-exclusive, worldwide, royalty-free license to use, copy, transmit, sub-license, index, store, and display Customer Data and Customer Content solely: (A) to the extent necessary to perform its obligations or enforce its rights under this Agreement; or (B) where required or authorized by law.
- 6.3 **Anonymized and Aggregated Data.** Unless otherwise stated in the PSLT, Customer grants Adobe and its Affiliates a non-exclusive, perpetual, worldwide, royalty-free license to use, copy, transmit, sub-license, index, model, aggregate (including with other customers' data), publish, display and distribute any anonymous information derived from Customer Data (such as, but not limited to, web browser, screen resolution, and mobile device-type information).
- 6.4 **Responsibility.** Customer retains complete control over the installation and configuration of Distributed Code, and each Customer Site and Customer Content. Customer is responsible for ensuring that all Customer Sites used with the On-demand Services or Managed Services, and all Customer Data and Customer Content comply with all applicable laws and regulations. Customer will take reasonable steps to identify and promptly remove any Customer Data or Customer Content that violates the requirements of section 4.4(A) ("**Unlawful Content**"), in accordance with applicable laws and regulations. If there is Unlawful Content, Adobe may suspend services or remove the Unlawful Content.
- 6.5 **Consumer Generated Content.** If content generated by consumers of Customer is uploaded to Adobe's On-demand Services and Managed Services, the following terms apply:
- (A) Adobe does not review all content uploaded to Adobe On-demand Services and Managed Services, but Adobe may use available technologies or processes to screen for certain types of illegal content (for example, child pornography) or other abusive content or behavior (for example, patterns of activity that indicate spam or phishing); and
  - (B) Adobe may access or disclose information about Customer, its consumers, or Customer's use of the On-demand Services and Managed Services when it is required by law (such as when Adobe receives a valid subpoena or search warrant).



- 6.6 **Data Retention.** With respect to On-demand Services, Customer Data may be permanently deleted from Adobe's servers 25 months from the date of its collection or receipt, unless specified otherwise in the respective PSLT.
- 6.7 **Usage Analytics.** Adobe may develop, modify, improve, support, and operate its Products and Services based on Customer's use, as applicable, of any Products and Services.

## 7. CONFIDENTIALITY

- 7.1 **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 7 (Confidentiality).
- 7.2 **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.
- 7.3 **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.
- 7.4 **Responsibility for Representatives and Affiliates.** For the purpose of this section 7 (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.

## 8. PRIVACY AND SECURITY MEASURES

- 8.1 **Compliance with Privacy Laws.** Adobe will comply with applicable privacy and data protection laws regarding the, processing and storage of Customer Data in connection with its role as described in the Agreement.
- 8.2 **Security Measures.** Adobe has implemented reasonable information security practices regarding the protection of Customer Data, including administrative, technical and physical security measures consistent with the information found at [www.adobe.com/go/cloudcompliance](http://www.adobe.com/go/cloudcompliance), for the applicable On-demand Services or Managed Services.
- 8.3 **Security Claims.** In the event of a Security Claim, Adobe will, at its expense:
- (A) defend any third-party Claim against Customer caused by Adobe's failure to comply with section 8.2 (Security Measures) to the extent such failure results in the unauthorized acquisition by a third-party of Customer Data ("**Security Claim**"), and
  - (B) indemnify Customer from and against any of the following, to the extent directly attributable to a Security Claim:
    - (1) Adobe-negotiated settlement amounts (to the extent Adobe is permitted to settle);
    - (2) damages finally awarded by a court;

- (3) credit monitoring services (up to one year in duration), provided through a nationally-recognized credit monitoring service, for each individual affected by the incident giving rise to the Security Claim;
  - (4) forensic analysis of the incident giving rise to the Security Claim, to the extent the incident emanates from the On-demand or Managed Services; and
  - (5) reasonable attorney's fees and costs associated with an investigation brought by a governmental agency as a direct result of Adobe's failure to comply with section 8.2 (Security Measures) to the extent such failure results in the unauthorized acquisition by a third-party of Customer Data.
  - (6) reasonable out-of-pocket expenses of Customer associated with satisfying applicable statutory requirements related to notifying affected individuals of the incident giving rise to the Security Claim.
- (C) Irrespective of how damages are characterized by a court of competent jurisdiction issuing the final award or in the written settlement agreement signed by Adobe, the damages described in section 8.3(B) will constitute direct damages.

#### 8.4 Conditions

- (A) Adobe will have no liability for any Security Claim to the extent such claim arises from:
- (1) any act or omission of Customer that impedes or prevents Adobe's ability to comply with section 8.2 (Security Measures);
  - (2) any Customer Customization (as defined in the applicable PSLT), or any vulnerability in the Customer Content or Customer Data; or
  - (3) Customer's breach of section 4.5 (Third Party Providers).
- (B) Adobe's obligations under section 8.3 (Security Claims) are conditioned upon Customer (to the extent permitted by applicable law):
- (1) promptly notifying Adobe of any Claim in writing;
  - (2) cooperating with Adobe in the defense of the Claim;
  - (3) granting Adobe sole control of the defense or settlement of the Claim; and
  - (4) refraining from making any admissions about the Claim.

8.5 **Remedies.** The remedies in section 8.3 (Security Claims) are Customer's sole and exclusive remedies and Adobe's sole liability and obligation regarding Adobe's failure to comply with section 8.2 (Security Measures) and any confidentiality claims involving Customer Data that may arise from an incident giving rise to the Security Claim (notwithstanding section 11.3(B)).

8.6 **Privacy Policy.** In connection with Customer's use of the On-demand Services and Managed Services, Customer will conspicuously display a privacy policy or other notice, from the primary consumer interface, that:

- (A) discloses Customer's privacy practices;
- (B) identifies the collection (via Distributed Code, where applicable) and use of information gathered in connection with the Products and Services, as applicable; and
- (C) offers individuals an opportunity to opt out of (or opt-in if applicable law requires) the collection or use of data gathered in connection with the On-demand Services or Managed Services. Adobe reserves the right to recommend to Customer that it modify its privacy disclosures to address updates or changes to applicable law, industry self-regulation, or best practices, and Customer agrees to undertake a good faith effort to address such recommendation(s).

- 8.7 **Sensitive Personal Data.** Customer agrees not to collect, process, or store any Sensitive Personal Data using the On-demand Services or Managed Services. Customer agrees not to transmit, disclose, or make available Sensitive Personal Data to Adobe or Adobe's third-party providers.
- 8.8 **Professional Services.** For Professional Services, Customer will not provide access to Customer Data unless specifically agreed to in writing.

## 9. THIRD PARTY INTELLECTUAL PROPERTY CLAIMS

- 9.1 **Adobe's Obligations.** Adobe will defend, at its expense, any third-party Claim against Customer during the License Term to the extent the Claim alleges that (A) the Indemnified Technology directly infringes the third party's patent, copyright, or trademark; or that (B) Adobe has misappropriated the third party's trade secret ("**Infringement Claim**"). Adobe will pay any damages finally awarded by a court of competent jurisdiction (or settlement amounts agreed to in writing by Adobe).
- 9.2 **Adobe's Response.** In the defense or settlement of any Infringement Claim, Adobe may, at its sole option and expense:
- (A) procure for Customer a license to continue using the Products and Services under the terms of this Agreement;
  - (B) replace or modify the allegedly infringing Products and Services to avoid the infringement; or
  - (C) terminate Customer's license and access to the Products and Services (or its infringing part) and refund:
    - (1) in the case of Products and Services licensed for a limited term, any prepaid unused fees as of the date of termination; or
    - (2) in the case of On-premise Software licensed for a perpetual term, an amount equal to the pro-rata value of the On-premise Software, calculated by depreciating the fee paid by Customer for the On-premise Software on a straight-line basis using a useful life of 36 months from the date of initial delivery of the On-premise Software,but only if Customer purges and destroys all copies of the On-premise Software (and any related materials) and Distributed Code from all computer systems on which it was stored.
- 9.3 **Conditions.** Adobe will have no liability for any Infringement Claim:
- (A) that arises from any:
    - (1) use of the Products and Services in violation of this Agreement;
    - (2) modification of the Products and Services by anyone other than Adobe;
    - (3) failure by Customer to install the latest updated version of the Products and Services as requested by Adobe to avoid infringement; or
    - (4) third-party products, services, hardware, software, or other materials, or combination of these with the Products and Services, if the Products and Services would not be infringing without this combination; or
  - (B) if Customer fails to:
    - (1) notify Adobe in writing of the Infringement Claim promptly upon the earlier of learning of or receiving a notice of it, to the extent that Adobe is prejudiced by this failure;
    - (2) provide Adobe with reasonable assistance requested by Adobe for the defense or settlement (as applicable) of the Infringement Claim;
    - (3) provide Adobe with the exclusive right to control and the authority to settle the Infringement Claim; or

(4) refrain from making admissions about the Infringement Claim without Adobe's prior written consent.

- 9.4 **Sole and Exclusive Remedy.** The remedies in this section 9 (Third Party Intellectual Property Claims) are Customer's sole and exclusive remedies and Adobe's sole liability regarding the subject matter giving rise to any Infringement Claim.

## 10. OTHER CLAIMS

- 10.1 **Customer's Obligations.** Customer will be responsible for any third-party Claim for which it found to be liable and to the extent it arises from:

- (A) Customer's failure to comply with Customer's data privacy policy, the applicable data protection laws, guidelines, regulations, codes and rules, and its obligations relating to Customer Data contained in this Agreement;
- (B) any Customer Customization (as defined in the applicable PSLT), Customer Content or Customer Data (excluding claims arising from Adobe's failure to comply with section 8.2 (Security Measures)); or
- (C) Customer's breach of section 4.5 (Third Party Providers).

Customer will pay any damages finally awarded by a court of competent jurisdiction against Customer (or settlement amounts agreed to in writing by Customer). The Limitation of Liability provision in the General Terms does not apply to Customer's liability or obligations under this section.

- 10.2 **Conditions.** Customer's obligations under this section 10 (Other Claims) are conditioned upon Adobe (to the extent permitted by applicable law): (1) promptly notifying the Customer of any Claim in writing; (2) cooperating with the Customer in the defense of the Claim; (3) granting the Customer sole control of the defense or settlement of the Claim; and (4) refraining from making any admissions about the Claim.
- 10.3 **Sole and Exclusive Remedy.** The remedies in this section 10 are Adobe's sole and exclusive remedies and Customer's sole liability regarding the subject matter giving rise to any such Claim.

## 11. LIMITATION OF LIABILITY

- 11.1 **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.**
- 11.2 **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 is limited to an amount equal to the aggregate of the fees payable by Customer under this Agreement during the 12 months before the initial Claim.**
- 11.3 **Sections 11.1 and 11.2 (Limitation of Liability):**
- (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 Section 7 (Confidentiality), Customer's use of Adobe Technology beyond the scope of any license granted under this Agreement, or Customer's failure to pay any amounts owing to Adobe under this Agreement.**

## 12. WARRANTIES

- 12.1 **Limited Warranty and Remedy for On-demand Services and Managed Services.** Adobe warrants that the On-demand Services and Managed Services, as delivered to Customer, will substantially

conform to the applicable Documentation during the License Term, to the extent that the On-demand Services and Managed Services constitute Indemnified Technology. Customer must notify Adobe of a claim under this warranty within 30 days of the date on which the condition giving rise to the claim first appeared. To the extent permitted by law, Customer's sole and exclusive remedy and Adobe's sole liability under or in connection with this warranty will be a replacement of the Distributed Code (as applicable), or if replacement is not commercially reasonable, a termination of the applicable On-demand Service or Managed Service and a refund of any pre-paid unused fees for the applicable On-demand Service or Managed Service.

- 12.2 Limited Warranty and Remedies for On-premise Software.** Adobe warrants that the On-premise Software will substantially conform to the applicable Documentation for 90 days following the delivery of the On-premise Software, to the extent that the On-premise Software constitutes Indemnified Technology. Customer must make these warranty claims to Adobe within this 90-day period. To the extent permitted by law, Customer's sole and exclusive remedy and Adobe's sole liability under or in connection with this warranty will be, at Adobe's option, a replacement of the On-premise Software, or refund of the fees Customer paid for the On-premise Software.
- 12.3 Implied Warranties.** To the maximum extent permitted by law and except for the express warranties in this Agreement, Adobe provides the Products and Services on an "as-is" basis. Adobe, its Affiliates, and third-party providers disclaim and make no other representation or warranty of any kind, express, implied or statutory, including representations, guarantees or warranties of merchantability, fitness for a particular purpose, title, non-infringement, or accuracy. Customer acknowledges that (A) neither Adobe, its Affiliates nor its third party providers controls Customer equipment or the transfer of data over communications facilities (including the Internet); (B) the Products and Services may be subject to limitations, interruptions, delays, cancellations, and other problems inherent in the use of the communications facilities (including search engines and social media channels); and (C) it is fully responsible to install appropriate security updates and patches. Adobe, its Affiliates, and its third party providers are not responsible for any interruptions, delays, cancellations, delivery failures, data loss, content corruption, packet loss, or other damage resulting from these problems.

### **13. LICENSE COMPLIANCE**

- 13.1** 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, installation, or deployment of the Products and Services (or other Adobe Technology used in conjunction with the Products and Services) comply with the terms of this Agreement.
- 13.2** For On-premise Software and any Distributed Code, the verification will require Customer to provide within 30 days of request (A) raw data from a software asset management tool of all On-premise Software and Distributed Code installed or deployed by or at the direction of Customer, including installation or deployment on servers owned by Customer or provided by third parties; (B) all valid purchase documentation for all On-premise Software and Distributed Code; and (C) any information reasonably requested by Adobe.
- 13.3** 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.
- 13.4** If the verification shows that Customer, its Affiliates or third-party contractors of Customer or its Affiliates are deploying, installing or using the Products and Services (or other Adobe Technology used in conjunction with the Products and 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, deployment, or installation 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.

#### 14. SPECIFIC PROVISIONS FOR PROFESSIONAL SERVICES

##### 14.1 License to Deliverables.

- (A) Without limiting or modifying any license granted to Customer for the On-premise Software, On-demand Services or Managed Services, Adobe grants Customer a non-exclusive, non- sublicensable and non-transferable license to use the materials developed and provided to Customer by Adobe in performing the Professional Services ("**Deliverables**") solely for Customer's direct beneficial business purposes.
- (B) Adobe retains all rights, title and interest (including intellectual property rights) 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 all rights, title and interest (including intellectual property rights) in the Adobe Technology or Deliverables. Adobe is free to use the residuals of Confidential Information for any purpose, where "residuals" means that Confidential Information disclosed in non-tangible form that may be retained in the memories of representatives of Adobe.

14.2 **Employment Taxes and Obligations.** Adobe is responsible for all taxes and any employment obligations arising from its employment of personnel and contractors to perform the Professional Services.

14.3 **Warranty.** Adobe warrants the Professional Services will be performed in a professional and workmanlike manner. Customer must notify Adobe in writing of any breach of this warranty within 30 days of delivery of such Professional Service. To the extent permitted by law, Customer's sole and exclusive remedy for breach of this warranty and Adobe's sole liability under or in connection with this warranty will be re-performance of the relevant Professional Service.

14.4 **Use of Subcontractors.** Customer agrees that Adobe may use subcontractors in the performance of the Professional Services. Where Adobe subcontracts any of its obligations concerning the Professional Services, Adobe will not be relieved of its obligations to Customer under this Agreement.

#### 15. TERM AND TERMINATION

15.1 **Term.** This Agreement applies to each of the Products and Services from the Effective Date until the expiration of the applicable License Term or the term for Professional Services, unless terminated earlier under this Agreement.

##### 15.2 Termination for Cause

- (A) **Material Breach by Either Party.** 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. The Customer may terminate the Agreement for convenience with 90 days prior written notice and shall not be entitled to a refund of any fees paid up to that point in time.
- (B) **Breach of Confidentiality Provisions.** If a Party is in breach of any confidentiality provisions of 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) **Other Breaches.** Adobe may terminate this Agreement, in whole or in part, immediately upon written notice to Customer, if required by law; or Customer breaches section 4.4 (D) of these General Terms.

### 15.3 Effect of Termination or Expiration.

- (A) Upon termination or expiration of this Agreement or any License Term for the Products and Services:
- (1) the license and associated rights for the Products and Services will immediately terminate;
  - (2) Customer must, at its expense: (a) remove and delete all copies of the On-premise Software and Distributed Code; and (b) remove all references and links to the On-demand Services or Managed Services from the Customer Sites. Some or all of the Products and Services may cease to operate without prior notice upon expiration or termination of the License Term; and
  - (3) Customer Data and Customer Content stored within the On-demand Services will be available to Customer for 30 days after the termination or expiration in the same format then available within the reporting interface(s).
- (B) Customer will be liable for any fees for any On-demand Services and Managed Services that are still in use or which remain active after termination or expiration of this Agreement. These fees will be invoiced to Customer at the rate set out in the Sales Order.
- (C) If Adobe reasonably determines that Customer's deployment of the On-demand Services or Managed Services contains or creates a material risk to Adobe Technology, Adobe's Confidential Information, the security or business operations of Adobe, any customer of Adobe, or to the continued normal operation of other Adobe customers, then Adobe may, at any time, upon written notice to Customer, immediately suspend or terminate Customer's access, in whole or in part, to the On-demand Services or Managed Services, until such risk is resolved. Adobe will use commercially reasonable efforts to mitigate any such security or operational risk prior to suspension or termination and only will look to such efforts as a final option to avoid such risks.

- 15.4 **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, payment obligations, confidentiality, term and termination, effect of termination, intellectual property, license compliance, limitation of liability, privacy, content monitoring, and the "General Provisions" section in these General Terms.

## 16. GENERAL PROVISIONS

### 16.1 Assignment.

- (A) Customer may assign this Agreement in its entirety to a surviving person or entity under a merger or acquisition of Customer, upon written notice to Adobe, if the assignment does not expand the scope of the license 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 Customer.
- (C) Except as provided in this section 16.1 (Assignment), 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.
- (D) Any (attempted) assignment in derogation of this section will be null and void.

### 16.2 Governing Law, Venue.

- 16.3 **Force Majeure.** 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.
- 16.4 **Injunctive Relief.** Actual or threatened breach of certain sections of this Agreement (such as, without limitation, provisions on intellectual property (including ownership), license, privacy, 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.
- 16.5 **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](mailto:ContractNotifications@adobe.com); and to Customer: at Customer's email address stated on the Sales Order, or if Customer's Sales Order is with an Adobe Partner, at Customer's registered address.
- 16.6 **No Agency.** 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.
- 16.7 **Customer's Purchase Order.** Any terms or conditions in Customer's purchase order or any other related documentation submitted by or on behalf of Customer to Adobe (or any other party, such as an Adobe Partner) do not form part of this Agreement and are void, unless otherwise expressly agreed in writing and signed by both Customer and Adobe.
- 16.8 **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.
- 16.9 **Order of Precedence.** The Sales Order will prevail over the applicable Product Specific Licensing Terms, which will prevail over the General Terms (to the extent of any inconsistency).
- 16.10 **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.
- 16.11 **Counterpart.** This Agreement (or a component) may be executed in one or more counterparts, each of which constitutes an original and all of which taken together constitutes the same agreement. Each Party may sign this Agreement using an electronic or handwritten signature, which are of equal effect, whether on original or electronic copies.
- 16.12 **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.
- 16.13 **Trade Rules.** Customer 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 Customer will comply with them.
- 16.14 **Adobe Partner Transactions.** If Customer orders Products and Services from an Adobe Partner under a Sales Order with the Adobe Partner ("**Customer Order**"): (A) the terms of this Agreement apply to Customer's use of the Products and Services; (B) the Enterprise Licensing Terms (or any part of it) prevail over any inconsistent provisions in the Customer Order; and (C) the Adobe Partner is solely responsible for any variations or inconsistencies between the Customer Order and the order between the Adobe Partner and Adobe for the transaction. 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.
- 16.15 **U.S. Government Licensing.** For US Government end users: Customer acknowledges that Products



and 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.

**PSLT - Adobe Experience Manager: Managed Services (2019v1)****1. Pre-Production Phase**

- 1.1 During the Pre-Production Phase, Customer will:
- (A) create and provide a complete and accurate Runbook to Adobe for review and obtain Adobe's written approval of such Runbook;
  - (B) create and test Customer Customizations for the purpose of evaluating potential configurations of the Managed Services;
  - (C) use the Cloud Manager Framework to submit, store, process, and manage changes to, the Customer Customizations; and
  - (D) conduct additional quality and security testing of those Customer Customizations and configurations by performing bug elimination, simulations, and integration with other Customer systems.

**2. Production Phase**

- 2.1 If Customer desires to make any Customer Customizations to the Managed Services once the Managed Services are in the Production Phase:
- (A) Customer will request that Adobe launch a cloned staging server, implement such Customer Customizations, and request that such Customer Customizations be reviewed and approved by Adobe;
  - (B) the Managed Services will then revert to the Pre-Production Phase in connection with such Customer Customizations on such cloned server; and
  - (C) Adobe will continue to simultaneously run the Managed Services in the Production Phase while such Customer Customizations are in the Pre-Production Phase.

**3. Customer Customizations**

- 3.1 Adobe will not be responsible for any defect or failure in the Managed Services caused by Customer Customizations or by Customer's failure to meet the obligations in sections 1 and 2 (Pre-Production Phase and Production Phase). Customer acknowledges and agrees that any testing of Customer Customizations via the Cloud Manager Framework represents only a subset of the overall testing that needs to be completed by Customer. Customer is solely responsible for all testing (security and quality) of Customer Customizations.
- 3.2 Should Customer fail to implement changes to Customer Customizations required by the Cloud Manager Framework, Customer may need to license additional Managed Production Capacity.

**17. Development Consultant.** Any Development Consultant(s) appointed by Customer under this PSLT works expressly and exclusively at Customer's direction and Customer is responsible for any acts or omissions of such Development Consultant(s). Adobe may deny access to any Development Consultant it deems is adversely impacting the Managed Services or other Managed Services customers. References to Customer in this PSLT refer to both Customer and its Development Consultant(s).

**18. Runbook.** Customer's Runbook must, at a minimum, include the subject matters listed below in the format provided by Adobe. Customer must promptly update the Runbook each time it creates new Customer Customizations that are accepted by Adobe for use in the Production Phase. Adobe may, in its sole discretion, from time to time during the License Term, change or modify the subject matters required to be included in the Runbook, and Customer will promptly update its Runbook to include such new subject matters. Customer will immediately update the Runbook upon any Adobe request.

**18.1 Runbook Table:**

Runbook Subject Matter	Description
System Configuration	Adobe may provide Customer with information regarding the configuration of the Managed Services, and Customer must verify whether this information is correct.

Runbook Subject Matter	Description
Customizations	<p>A list of all Customer Customizations.</p> <p>A list and description of the functionality of all software (including of any bugs) installed by Customer in connection with the Managed Services.</p> <p>A list of all AEM Forms Reader Extensions credentials or PKI certificates applied to the Managed Services by Customer.</p> <p>Any Customer-specific backup schedule for Customer's implementation of the Managed Services.</p>
System Monitoring	<p>A list of any connections between the Managed Services and any other systems on which the Managed Services is dependent.</p> <p>A list of parameters for such connections that should be monitored by Adobe to ensure functioning of the Managed Services.</p> <p>A list of parameters associated with any Customer Customizations that should be monitored by Adobe to ensure functioning of the Managed Services.</p>
User Acceptance Testing Documentation	<p>Describe the load testing scenarios conducted by Customer.</p> <p>Describe the user acceptance testing scenarios conducted by Customer.</p> <p>Describe the positive and negative outcomes of such testing.</p>
Post Production Changes	Describe the changes to the Managed Services' Production Phase, which were requested by Customer and approved and implemented by Adobe.
Events and Responses	<p>List all known weaknesses in Customer Customizations to the Managed Services.</p> <p>Recommend actions to be taken by Adobe when providing support for the Managed Services.</p> <p>Include the following information, at a minimum:</p> <ul style="list-style-type: none"> <li>⌚ all log files created by Customer;</li> <li>⌚ all information source or recipient repositories;</li> <li>⌚ all data bases and other info storage occurring in the Managed Services;</li> <li>⌚ any encryption models implemented in the Managed Services;</li> <li>⌚ all communications with any upstream data sources, including forms;</li> <li>⌚ any additional executables/WAR Files added to the Managed Services;</li> <li>⌚ all information required for long-term administration of the Customer Customizations; and</li> <li>⌚ the most common failure modes and recommendations for recovery from such failures.</li> </ul>
Contacts and Contracts	<p>Specify a Customer contact who Adobe should notify if the system goes down.</p> <p>Specify a Customer resource who has technical knowledge of the Managed Services and who can answer questions from Adobe.</p> <p>Specify any links between Customer's IT gate keeper for the Managed Services and other Customer systems (e.g., LDAP, data repositories, etc.).</p> <p>Specify the Customer relationship manager for Development Consultant.</p> <p>Specify the Development Consultant contact who Adobe can contact in a support emergency.</p> <p>Specify the Development Consultant contact for management escalation.</p> <p>Specify the Development Consultant contact with whom Adobe will work to test upgrades to the Managed Services.</p> <p>Describe the agreement between Customer and Development Consultant. Include details on Development Consultant's response time requirements and other special instructions from Customer regarding such response times.</p>

**19. Long-Term Storage and Encryption**

- 19.1 Adobe stores all long-term Customer Content, Customer Data and related operational data on mechanisms external to the virtual machines supporting Customer's Managed Services deployment.
- 19.2 Adobe encrypts all Customer Content, Customer Data and related operational data stored outside the virtual machine at a standard of no less than AES-256.

**20. Backup**

- 20.1 Adobe backs-up long-term Customer Content, Customer Data and related operational data such that Adobe can make a rapid recovery of the Managed Services in the event of a loss of the primary data within a system.
- 20.2 Adobe encrypts all backups at the same standard or better as set forth above for long-term storage. All backed-up Customer Data, Customer Content and related operational data will, after encryption, be distributed across multiple data centers within a given cloud region to allow for recovery within these data centers in the event of the loss of function of the primary data center.
- 20.3 All backups will be taken at a frequency specified by Customer in Customer's Runbook, or daily if no specification is made.
- 20.4 Adobe will retain all backups for a period specified in Customer's Runbook, or for one week if no specification is made. Adobe may delete and overwrite all backup files from media seven days after the end of the retention period unless Adobe is otherwise requested to retain these files, in writing, by Customer or law enforcement.
- 20.5 Customer Data, Customer Content and Customer Customizations stored within the Managed Services will be available to Customer until the expiration or termination of the License Term in the same format then available within the Managed Services. Customer acknowledges and agrees that the Managed Services should not be Customer's only repository for Customer Data, Customer Content and Customer Customizations.

**21. Adobe Experience Targeting – Data Retention.** To the extent that Customer has licensed Managed Services that include bundled Adobe Experience Targeting, Customer Data collected by Adobe Experience Targeting may be permanently deleted from Adobe's servers (a) 90 days after collection for visitor profile data, and (b) 12 months after collection for Customer Site activity data. Customer Data and Customer Content associated with Adobe Experience Targeting are stored outside of the Managed Services, in the Adobe Experience Targeting On-demand Service environment.

**22. License for Development Software.** Customer may install and use a reasonable number of copies of the On-premise Software versions of the licensed Managed Services in a development environment only, strictly for testing and quality assurance purposes and not for production purposes.

**23. Permitted Use.** Adobe may access, use, copy and store Customer Data, Customer Content, Customer Customizations, User interactions, and Managed Services system performance to test AEM and the Managed Services and derive information which may be used to develop, build, modify, improve, support, and operate AEM and the Managed Services.

**24. Use of Fonts.** Except as otherwise detailed in the Agreement, Adobe's proprietary or licensed fonts are embedded with the Products and Services only for use within the user interface of the Products and Services.

**25. Patches.** Customer is prohibited from applying patches to the Managed Services, unless expressly approved by Adobe in the Runbook.

**26. Service Level Agreement.** Adobe's Minimum Uptime Percentage obligations are detailed in the Service Level Agreement and the Service Commitment Exhibit for AEM Managed Services found here: <http://www.adobe.com/legal/service-commitments.html> (together the "Service Level Agreement").

**27. Support Services.** All priority issues and issues related to the performance of the Managed Services should be submitted pursuant to the Support Policies: Terms and Conditions described at: <https://helpx.adobe.com/support/programs/support-policies-terms-conditions.html> (each a "Service Request"). If a Service Request relates to a problem in the usage of the Managed Services, Customer will provide Adobe with sufficient access and detail to permit Adobe to understand and reproduce the problem. If

it is mutually determined by Customer and Adobe that the problem represents an error in the Managed Services that causes it to not operate in substantial conformity with applicable Documentation, Adobe will process the Service Request as detailed in the Support Policies: Terms and Conditions. In addition, Adobe may, at its sole discretion and from time to time, implement fix releases.

**28. Software Updates and Upgrades.** During the License Term, all Managed Services include the updates and upgrades that are released to the general Adobe customer base.

- (A) **Types of Upgrades.** From time to time during the License Term, Adobe may implement upgrades to the Managed Services. Those upgrades may include a Customer-specific upgrade, an emergency upgrade necessary for the security of the Managed Services or to address issues causing Adobe not to meet the Minimum Uptime Percentage (each an “**Emergency Upgrade**”), a minor upgrade (i.e., a maintenance release or a new minor version change to the Managed Services for purposes including but not limited to, error correction), or a major upgrade (i.e., a new version of the Managed Services).
- (B) **Upgrade Events Sequence.** Adobe will make all reasonable efforts to first install all upgrades on a server in the Pre-Production Phase at a mutually agreed upon time described in section 15(C) (Upgrade Timing) below. Once Adobe performs such installation, Customer will work with Adobe to test the upgrade’s implementation in a timely fashion and will notify their Adobe contacts, as listed in the Runbook, of the success or failure of such testing. In the event of successful test results, Adobe will install the upgrade on server(s) in the Production Phase on a schedule described in section 15(C) (Upgrade Timing) below. In the event of the failure of the upgrade, Adobe will take corrective action if the issue is with Adobe’s software. If the issue is with Customer Customizations, Adobe will take reasonable steps to support Customer in Customer’s efforts to make adjustment to the code underlying Customer Customizations. Upon successful resolution of any such issues, Adobe will install the upgrade on the Production Phase server(s) as described above. A Customer may elect to defer or decline any such upgrade (excluding Emergency Upgrades) as set forth in section 15(D) (Upgrade Deferrals) below.
- (C) **Upgrade Timing.** Emergency Upgrades will be implemented by Adobe as needed. All other upgrades will be implemented by Adobe throughout the License Term upon prior written notice to Customer as specified in the Runbook. Adobe will notify Customer, with as much lead time as possible, of the availability of such upgrades. After Adobe provides such notification, Adobe will work with Customer to determine a mutually agreed upon time to provide a Pre-Production Phase system for Customer to start testing the upgrade. Unless Adobe agrees in writing to a longer test period, Customer must finish its testing within 5 business days after Adobe makes the upgraded Managed Services available. In the event that Customer notifies Adobe that the tests on the Pre-Production Phase system have passed, Adobe will work with Customer to determine a mutually agreed upon maintenance window or other time period to implement the upgrade.
- (D) **Upgrade Deferrals.** A Customer may elect to defer or decline any upgrade (excluding Emergency Upgrades). If Customer defers or declines an upgrade that is required to maintain the Managed Services within at least 1 major upgrade of the then-current, generally commercially available version of the Adobe Experience Manager Managed Services (each a “**Support Upgrade**”) for any reason (including but not limited to, unwillingness to accept the Support Upgrade or unwillingness to make Customer Customizations that enable the Managed Services to become compatible with a Support Upgrade), Customer agrees to pay Adobe an additional Extended Operations Uplift Fee calculated as an additional 50% increase to any fees incurred after the effective date of Customer’s deferral or declining of the Support Upgrade. Notwithstanding the foregoing, Customer is not obligated to pay to Adobe any such Extended Operations Uplift Fees if Customer is willing to install the Support Upgrade, but an action by Adobe causes such Support Upgrade to fail to be backward compatible with the then-current version of the Managed Services; however, Customer will work with Adobe to install the applicable Support Upgrade within a reasonable period of time.

- (E) **Emergency Upgrades.** Notwithstanding anything to the contrary herein, Customer must accept all Emergency Upgrades.

## 29. Additional Definitions

- 29.1 **"Cloud Manager Framework"** means Adobe's continuous integration, continuous deployment and testing framework. The Cloud Manager Framework may:
- (A) store Customer Customizations (Customer agrees that it will upload only Customer Customizations into the Cloud Manager Framework repository);
  - (B) test the quality of Customer Customizations;
  - (C) provide recommended or required updates or changes to Customer Customizations;
  - (D) provide Customer with access to Adobe's identity management system (Customer agrees that it will notify Adobe regarding any desire to use an alternative identity management system);
  - (E) compile approved Customer Customizations;
  - (F) deploy Customer Customizations in the Production Phase; and
  - (G) allow authorized Users to make self-service increases to Managed Services system infrastructure.
- 29.2 **"Customer Customizations"** means the customizations, including source code and configurations, made to the Managed Services at Customer's direction. Customer Customizations do not constitute Indemnified Technology. Customer owns (or, where applicable, must ensure it has a valid license to) Customer Customizations, subject to Adobe's underlying intellectual property in the Adobe Technology. Customer acknowledges and agrees that Adobe's access to Customer Customizations does not preclude Adobe from independently developing (without use of Customer Customizations) or acquiring similar technology without obligation to Customer.
- 29.3 **"Development Consultant"** means a third-party systems integrator that (a) Customer has authorized, under section 5 of the General Terms, to access, test and customize the Managed Services during the Pre-Production Phase, and (b) has a minimum of one individual on the development team who has an AEM 6 Architect Certification and will be significantly engaged and involved in the Managed Services development project.
- 29.4 **"Minimum Uptime Percentage"** means the minimum Uptime Percentage (as defined in the Service Level Agreement) identified in the Sales Order and Documentation for each Managed Service licensed by Customer. Development (QA) Instances and Stage Instances have no guaranteed Minimum Uptime Percentage.
- 29.5 **"Pre-Production Phase"** means the period of time before the Production Phase.
- 29.6 **"Production Phase"** means the period of time when Managed Services Users use the Managed Services (A) on Customer Sites; or (B) for its internal operations.
- 29.7 **"Runbook"** means a document written by Customer that provides Adobe with a list of Customer Customizations and configurations Customer made to the Managed Services. Such list is intended to assist Adobe in running and supporting the Managed Services in the Production Phase.

**Contract Control Number:** TECHS-201952623-01 (Alfresco No. TECHS-201417941-01)  
**Contractor Name:** ADOBE INC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

By:

**Contract Control Number:**  
**Contractor Name:**

TECHS-201952623-01 (Alfresco No. TECHS-201417941-01)  
ADOBE INC

By:  E4D3AFC24FA34A9...

Name: Andy Payne  
(please print)

Title: Director Technical Revenue Ops  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)





## Adobe Premier Support Statement of Work

### 1. OBJECTIVE

Adobe Premier Support provides the Customer with an enhanced support experience for the following Adobe Experience Cloud Products/Services (e.g Analytics, Audience Manager, Campaign, Experience Manager, and Target). Premier Support customers will receive a named Adobe support contact for higher priority support services for their licensed Adobe Experience Cloud Products and Services. Premier Support customers will also receive access to a named Adobe Technical Account Manager ("TAM") that will provide proactive guidance to help optimize Customer's utilization of mutually selected Adobe Experience Cloud product.

### 2. EXTENDED SUPPORT

Base Support	Access for Customer to log tickets for support issues.
Operational Support Delivery	<p>24/7 hour access to Customer support:</p> <ul style="list-style-type: none"> <li>• SLA management, where applicable</li> <li>• Incident resolution</li> <li>• Next issue avoidance</li> <li>• One event monitoring per quarter with at minimum two weeks notice</li> </ul>
Designated Support Contact	<p>A named Adobe support contact assigned to Customer to provide a consistent support experience.</p> <p>Knowledge and familiarity of Customer's environment and business enabling an enhanced support service.</p> <p>Designated Support Contact will be available during Adobe's local business hours (9am to 5pm) in the Customer's time zone.</p>
Active Escalation management	<p>When Customer initiates an escalation through Support tickets, the Designated Support Contact provides:</p> <ul style="list-style-type: none"> <li>• An escalation point of contact to manage the escalation through to resolution</li> <li>• Regular status reporting on the escalated issue</li> </ul>
24/7 support on existing channels with Designated Support Contact	<p>For issues arising outside of Adobe's local business hours (9am to 5pm) in the Customer's time zone, Customer can contact a back-up support engineer that will route the issue to the correct team to address the matter. The back up support engineer will keep the Designated Support Contact informed.</p>

Service delivery management	<p>Service delivery management includes:</p> <ul style="list-style-type: none"> <li>• Capturing environment and project information to provide an enhanced support experience</li> <li>• Root cause analysis for critical Service outages</li> <li>• Coordinating and actively managing Premier Support delivery to provide a personalized enhanced support experience</li> <li>• The Designated Support Contact working alongside the assigned Technical Account Manager to coordinate activities, if other support resources are involved.</li> </ul>
Service delivery reviews	<ul style="list-style-type: none"> <li>• Align with the Adobe Customer Success Manager to perform service delivery reviews with Customer (e.g., QBR)</li> <li>• Trend reporting on ARD (average resolution day) and OCA (open case aging).</li> </ul>
Regular check-ins	<p>Customer's Designated Support Contact will participate with Customer in check-ins arranged by TAM (twice a month) to review any open tickets and new opportunities suggested by the TAM.</p> <p>Align with Customer on action plans and priority for support issues across all deployed Adobe Experience Cloud products.</p>

Adobe's standard Support Services Terms and Conditions are augmented to include the following:

Initiation and Processing of Service Request		
Priority	Standard Support Response Time	Premier Support Response Time
<b>Level 1 – Critical</b> (Service request must be initiated telephonically)	30 min	15 minutes
<b>Level 2 - Urgent</b>	1 hours	30 minutes
<b>Level 3 - Important</b>	4 hours	2 hours
<b>Level 4 - Minor</b>	1 day	1 day

#### Live Telephone and Online Technical Support

The Designated Support Contact is available during Adobe's local business hours (9am to 5pm) in the Customer's time zone. Outside of these hours Service Requests will be handled by an available support engineer who will engage with the Designated Support Contact on the Service Request during business hours.

### 3. PROFESSIONAL SERVICES: ENHANCED SERVICES ACTIVITIES

Adobe will assign a TAM to provide proactive guidance on the mutually selected Adobe Experience Cloud Product or Service (e.g. Analytics, or Audience Manager, or Campaign, or Experience Manager, or Target), for one Customer business unit. The TAM will be available during Adobe's local business hours (9am to 5pm) in the Customer's time zone. TAM and Customer will mutually create a service delivery plan at the commencement of the services that outlines the activities, objectives, and structure of the Professional Services.

Limitations: If Customer has purchased Premier Support Basic, Customer will be entitled to the Enhanced Service activities listed for Premier Support Basic. If Customer has purchased Premier Support Foundation, Customer will be entitled to the Enhanced Service activities listed for both Premier Support Basic and Premier Support Foundation below. If Customer has purchased Premier Support Plus, Premier Support Advanced, or Premier Support Dedicated services, (i) Customer will be entitled to the Enhanced Services Activities listed for both Premier Support Basic and Premier Support Foundation below, (ii) Field Services hours associated with Premier Support Foundation services, and (iii) the number of supported Adobe Experience Cloud Products/Services and the number of supported Customer business units will be specified in the Sales Order.

<b><u>Premier Support Basic: Enhanced Services Activities</u></b>	<b><u>Description of typical TAM activities</u></b>
Environment Assessment	<p>Annual review of environments and/or specific components (not to include any custom code). Review solution deployment, configuration, integrations, and overall architecture. Typical Environment Assessment activities include:</p> <ul style="list-style-type: none"> <li>• Analyze solution capability, utilization, and performance</li> <li>• Assess operational processes and procedures</li> <li>• Capture current support and performance benchmarks</li> <li>• Identify product deployment risks and mitigations</li> <li>• Review standards for optimal use and performance</li> </ul>
Product Roadmap Review	<ul style="list-style-type: none"> <li>• Review Customer's project roadmap</li> <li>• Share Adobe product roadmap (including EOL, key features, etc.)</li> <li>• Identify gaps and opportunities, and make recommendations for alignment</li> <li>• Capture business goals and risks for alignment</li> </ul>
Maintenance Checks	<ul style="list-style-type: none"> <li>• Review available updates and make qualified recommendations on incorporating any updates</li> <li>• Advise and guide on regular system maintenance tasks</li> <li>• Check/guide on Adobe Experience Cloud Product/Service health and performance monitoring</li> <li>• Inform Customer about any security patches</li> <li>• Monitor business-critical workflows/reports and coordinate action to avoid delays</li> </ul>
<b><u>Premier Support Foundation Enhanced Service Activities:</u></b>	<b><u>Description of typical TAM activities</u></b>
Testing Review	<ul style="list-style-type: none"> <li>• Simulate environments to expedite issue resolution</li> <li>• Test specific scenarios/critical workflows to identify errors and gaps</li> <li>• Establish testing protocols for faster investigation and resolution of issues (JIRA</li> </ul>

	test case, smoke test, AEM bundles started) <ul style="list-style-type: none"> <li>Review Customer's testing plan and provide recommendations and best practices</li> </ul>
Release Preparation and Review	<ul style="list-style-type: none"> <li>Subscribe the business users to ongoing release notes</li> <li>Provide tailored release information based on Customer requirements</li> <li>Review and understand maintenance release schedules</li> <li>Perform focused sessions to demonstrate new features</li> <li>Release impact analysis and guidance</li> <li>Review Customer release and deployment plan</li> </ul>
Knowledge Transfer	<ul style="list-style-type: none"> <li>Consultative technical Q&amp;A</li> <li>Themed expert sessions</li> <li>Guidance and best practice on process, people and technology</li> <li>Apply key learnings from other projects, helping avoid common issues and pitfalls</li> <li>Support product adoption initiatives</li> <li>Contribute to Customers' knowledge management infrastructure</li> </ul>
Upgrade/Migration Planning	<ul style="list-style-type: none"> <li>Help qualify upgrade/migration path and options</li> <li>Capture requirements for migration or product upgrade</li> <li>Review upgrade/migration plan</li> <li>Make recommendations to ensure success</li> </ul>
Event Readiness	<ul style="list-style-type: none"> <li>Capture event roadmap (go-lives, campaigns, product launches, roll-outs)</li> <li>Support and guide during event preparation phase</li> <li>Review volume/load forecasting</li> <li>Review event action plan, incl. resource requirements and coverage</li> <li>Define support protocol for the critical event period</li> <li>Notify and coordinate Adobe internal teams</li> <li>Share event summary and key learnings</li> </ul>

#### 4. PROFESSIONAL SERVICES: FIELD SERVICES ACTIVITIES

Adobe will assign Field Services consultants to provide consulting on the mutually selected Adobe Experience Cloud Product or Service (e.g Analytics, or Audience Manager, or Campaign, or Experience Manager, or Target). The Field Services work will include assisting Customer with scoping and allocating Field Service hours to the mutually selected Adobe Experience Cloud Product or Service.

Limitations: If Customer has purchased Premier Support Basic, Customer will be entitled to 80 hours of Field Service activities per year. If Customer has purchased Premier Support Foundation, Customer will be entitled to 120 hours of Field Service activities per year. These hours are not interchangeable with any other Adobe Professional Services engagement(s), and there will be no credit or refund for any unused hours.

<b><u>Field Services Phases</u></b>	<b><u>Description of typical Field Services Activities</u></b>
Diagnosis and Estimate	Field Services Activities include meeting over the phone or through an online interface with Customer to discuss the reactive or proactive support issue that has been referred by the TAM. The Field Services consultant will work with Customer to perform a diagnosis of the support issue and recommend Field Services Activities. The diagnosis time by the Field

	<p>Services consultant counts towards Field Services hours. Note, any issues inherent to the Adobe Product or Service, and not specific to the Customer's implementation or configuration, that are discovered via diagnosis will be deemed out of scope for Field Services and will be referred to the Designated Support Contact.</p>
Remediate	<p>Once diagnosis is completed, Field Service hours will be applied towards the implementation plan agreed upon by the Field Service consultant and Customer.</p> <p>Some typical examples of Field Services Activities include:</p> <p>Enablement (Up to 24 hours)</p> <ul style="list-style-type: none"> <li>• Custom enablement session –Adobe will provide training and guidance to Customer on upgrades or unused features in the Customer's utilization of the Adobe Experience Cloud product (like ObservePoint).</li> <li>• Field Services will demonstrate how to create a unit test, how to convert a classic UI dialogue to Touch UI that can benefit Customer in their use of the Adobe solution.</li> </ul> <p>Optimization (Up to 40 hours)</p> <ul style="list-style-type: none"> <li>• Adobe will validate the need for a minor configuration change, and advise on such minor configuration change</li> <li>• Adobe will demonstrate minor configuration change in non-production environment</li> <li>• Adobe will provide guidance to Customer on how to upgrade the Adobe Experience Cloud Product or Service to enable access to any new features and capabilities</li> <li>• Cloud enablement and validation – providing guidance to Customer on how to align any existing Adobe Experience Cloud Products or Services deployed and/or implemented in different business units within Customer's organization</li> </ul> <p>Minor Fixes (Up to 24 hours)</p> <ul style="list-style-type: none"> <li>• Minor configuration fixes – assisting Customer with the creation of, or updates to, configurations and code to implement a fix.</li> <li>• Demonstrate a minor configuration change in a non-production environment.</li> </ul>

## 5. GENERAL ASSUMPTIONS

The delivery of Adobe Premier Support is subject to the following:

- (A) Adobe only provides Adobe Premier Support services in relation to the applicable mutually selected Experience Cloud Product or Service.
- (B) Customer must identify a single platform owner to drive feedback, approvals (alignment), and stakeholder participation on an ongoing basis across requirements and implementation practices.
- (C) Customer's platform owner will coordinate Customer's responsibilities, including, if applicable: any activities, due dates, resources, and internal development for Customer's team. Customer's platform owner will prioritize the tasks to be performed by the Adobe consultant(s).
- (D) Customer must provide all necessary information, resources and work requirements to Adobe before Adobe commences providing the Professional Services under this engagement. If any information, resources, work requirements or decisions to be made by Customer are delayed (e.g. Customer platform owner not being available), Adobe will not be responsible for the consequences of such delays.
- (E) Adobe will perform the Field Services activities up to the number of hours specified in this Statement of Work. Customer. Customer acknowledges that there is no express or implied commitment from Adobe that all activities can be completed in the hours of Field Services that Customer has purchased under the Sales Order.
- (F) Customer must provide access to their environments from remote locations.

- (G) Customer's resources will provide timely responses to requests from Adobe.
- (H) Customer must participate in discovery workshops and provide access to stakeholders for interviews and requirements.
- (I) Adobe's consultant(s) will work under the reasonable supervision and direction of Customer.
- (J) For Adobe Premier Support Basic and Foundation, the TAM will work with the Customer on the mutually selected Adobe Experience Cloud Product or Service(i.e. Analytics, or Audience Manager, or Campaign, or Experience Manager, or Target), in one Customer business unit.
- (K) Any additional Professional Services may be purchased via a new Sales Order.
- (L) Once service delivery and implementation plans are agreed to, any changes must be mutually agreed and documented.
- (M) Customer agrees that the rates specified in the Sales Order may not apply to any other Adobe services.
- (N) Customer will be responsible for all reasonable travel expenses, hotel accommodations, and any other out of pocket expenses properly and reasonably incurred by Adobe in connection with any TAM work to be performed on-site at the Customer's facilities. Such TAM travel expenses will be charged to Customer at cost. For clarity, Field Service hours are provided remotely, and no travel to Customer premises is anticipated.
- (O) Adobe does not guarantee resolution times for any Extended Support.
- (P) Customer agrees if the Field Services hours are consumed no other Field Services will be provided, until additional hours are purchased via a new Sales Order.
- (Q) Field Services may be performed using off-shore or on-shore resources or a mixture of both. Field Services activities may be performed outside of the Customer's main business hour time zone. Field Services when performed using off-shore resources will be provided in English language.
- (R) Customer is ultimately responsible for developing all scripts, components, or templates.
- (S) Adobe shall have no liability for any delays or other damages caused by Customer's failure to meet its obligations or the requirements set out in this SOW.