

ADOBE SYSTEMS INCORPORATED
ADOBE GRAPHICS SERVER
End User License Agreement

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SECTION 3 – ADOBE GRAPHICS SERVER

SECTION 4 – EVALUATION SOFTWARE

SECTION 5 – DEVELOPMENT SOFTWARE

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1. Definitions.

1.1. “Access” means to use or benefit from using the functionality of the Software in accordance with the Documentation.

1.2. “Adobe” means Adobe Systems Incorporated, a Delaware corporation, 345 Park Avenue, San Jose, California 95110, if subsection 12(a) of this Agreement applies; otherwise it means Adobe Systems Software Ireland Limited, Unit 3100, Lake Drive, City West Campus, Saggart D24, Dublin, Republic of Ireland, a company organized under the laws of Ireland and an affiliate and licensee of Adobe Systems Incorporated.

1.3. “API Information” means the SDK application programming interface, header files, and related information.

1.4. “Computer” means one or more central processing units (“CPU”) in a hardware device (including a server) that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions.

1.5. “CPU-Limited Software” means a version of Adobe Graphics Server software licensed by Adobe on a per-CPU basis for production use.

1.6. “Development Software” means a version of the Adobe Graphics Server software product licensed by Adobe for use in a technical environment designed to conduct development and testing and not for production use.

1.7. “Evaluation Software” means a version of the Adobe Graphics Server software product licensed by Adobe as an evaluation, tryout, product sampler, or not for resale copy of the Software not for production use or use as Development Software.

1.8. “Install” means to place a copy of the Software onto a hard disk or other storage medium through any means (including but not limited to use of an installation utility application accompanying the Software) for the purpose of permitting Access to the Software.

1.9. “Internal Network” shall mean your private, proprietary network resource accessible only by employees and/or contractors of your specific corporate enterprise or similar organization (“Authorized Users”). “Internal Network” specifically excludes the Internet (as such term is commonly defined) or any other network community open to the public, including without limitation membership or subscription driven groups, associations or similar organizations. Connection by secure links such as VPN or dial up to your Internal Network for the purpose of allowing Authorized Users to Access the Software is considered use over an Internal Network.

1.10. If you have licensed Adobe Graphics Server software as CPU-Limited Software, then “Permitted Number” of CPUs means one (1) unless otherwise indicated under a valid license (e.g., volume license) granted by Adobe. If you have licensed Adobe Graphics Server software as Thread-Limited Software, then “Permitted Number” of Threads means three (3) unless otherwise indicated under a valid license granted by Adobe. For all other purposes, “Permitted Number” means one (1) unless otherwise indicated under a valid license granted by Adobe.

1.11. “Sample Code” means sample software code found in the folder entitled “samples” or “sdk” in source code format, and the code distributed with the Software that is entitled “AlterCastCOM.dll”.

1.12. “SDK Components” means the Sample Code and API Information found in the folders entitled “samples” and “sdk,” which are distributed as part of the Software.

1.13. “Software” means (a) all of the contents of the files, disk(s), CD-ROM(s) or other media with which this Agreement is provided, including but not limited to (i) Adobe or third party computer information or software (including Evaluation Software and Development Software); (ii) digital images, stock photographs, clip art, sounds or other artistic works (“Stock Files”); and (iii) related explanatory written materials or files (“Documentation”); and (b) upgrades, fixes, modified versions, updates, additions, and copies of the Software, if any, licensed to you by Adobe (collectively, “Updates”).

1.14. “Thread” means a specific path or route providing Access to Adobe Graphics Server software using a software interoperability architecture identified for such use in the Documentation.

1.15. “Thread-Limited Software” means a version of Adobe Graphics Server software licensed by Adobe on a per-Thread basis for production use.

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2.1. **SDK Use.** You may install the SDK Components on any Computer(s) connected to your Internal Network, Access the API Information subject to Section 2.2 below, and use and modify the Sample Code and merge all or any portion of the Sample Code into your own code for the purpose of facilitating your Access to the Software in accordance with this Agreement. You may redistribute any such Sample Code in object code form only as merged into your own code. You are required to include Adobe's copyright notices on your programs that include portions of Sample Code, except for those programs in which you include a copyright notice reflecting your own copyright ownership in such programs.

2.2. **API Information Confidentiality.** You agree that you will treat the API Information with the same degree of care to prevent unauthorized disclosure to anyone other than Authorized Users as you accord to your own confidential information, but in no event less than reasonable care. Your obligations under this Section with respect to the API Information shall terminate when you can document that the API Information was in the public domain at or subsequent to the time it was communicated to you by Adobe through no fault of yours. You may also disclose the API Information in response to a valid order by a court or other governmental body, when otherwise required by law, or when necessary to establish the rights of either party under this Agreement, provided you give Adobe advance written notice thereof.

2.3. **Backup Copy.** You may make one (1) additional copy of each validly licensed copy of the Adobe Graphics Server software and Development Software (but not the Evaluation Software) in machine readable form for backup purposes only, provided that you include any and all Adobe copyright notices or other designations that appear or may appear in or on the Software, without alteration or removal of any such copyright or other notice on the original copy of the Software. You may Install and Access backup copies of Development Software only in the event that your primary copy has failed. With respect to each copy of Adobe Graphics Server software, you may Install such backup copy on any of your Computer(s) to operate it concurrently with your primary copy of Adobe Graphics Server software solely for backup purposes in the event of Computer failures or maintenance. You may Access the backup copy of Adobe Graphics Server software for production purposes only in the event that your primary copy has failed or is under maintenance and is not in production use. At no time may the total number of CPUs or Threads on the Computer(s) on which you Access both the primary copy and backup copy of Adobe Graphics Server software for production purposes exceed the Permitted Number. Except as otherwise described in this Section 2.3, all terms and conditions of this Agreement shall apply to your Installation and Access of any backup copy of the Software. You may not transfer the rights to a backup copy unless you transfer all rights in the Software as provided in the Transfer Section of this Agreement.

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2.6. **Use in Compliance with the Law.** As between you and Adobe, you assume all risk and are solely responsible for any and all liability resulting from Access to the Software (including font software) in a way that violates (or that produces content that violates) any law or the rights of others including, without limitation, laws concerning copyright infringement.

3. **Adobe Graphics Server.** This Section 3 applies only if you have obtained a valid license to Adobe Graphics Server software other than Evaluation Software and Development Software versions of such Software. In addition to the other terms contained herein, your license to the Adobe Graphics Server software is limited as follows:

3.1. **Software Installation.** Adobe grants to you a non-exclusive license to Install Adobe Graphics Server software on one (1) Computer on your Internal Network for the purposes described in the Documentation, provided that: (a) with respect to CPU-Limited Software the total number of CPUs on the Computer on which Adobe Graphics Server software is Installed does not exceed the Permitted Number; (b) with respect to Thread-Limited Software the total number of Threads enabled on the Computer on which Adobe Graphics Server software is Installed does not exceed the Permitted Number. Except as expressly permitted herein, you may not Install all or any portion of Adobe Graphics Server software onto any Computer if doing so would cause you to exceed the Permitted Number of CPUs, Threads and/or Computers.

3.2. **Internal Network Use.** You may permit an unlimited number of Authorized Users to Access Adobe Graphics Server software through your Internal Network. In addition, you may configure Adobe Graphics Server software so as to automate (such as through the use of scripts and/or batch processing) Software features (such as image resizing) provided that such automated process is initiated by Authorized Users from within your Internal Network. You may Access Adobe Graphics Server software to deliver content to any Computer connected to your Internal Network.

3.3. **Other Network Use.** Except as otherwise provided in this Section 3.3, you may not (a) permit Access to Adobe Graphics Server software by any users other than Authorized Users, or (b) Access Adobe Graphics Server software (or permit others to do so) to deliver content either directly or through commands, data or instructions from or to a Computer not part of your Internal Network.

3.3.1. **Authorized Users.** Authorized Users may Access Adobe Graphics Server software (either directly or through an automated process) to deliver content to a Computer that is outside your Internal Network and to serve content to a live Internet web site.

3.3.2. **Other Users.** You may provide Access to Adobe Graphics Server software or to specific features of Adobe Graphics Server software (such as image resizing) to users outside your Internal Network for the sole purpose of initiating a process (including an automated process) that results in Adobe Graphics Server software delivering content (including content that has been modified based on user-specified preferences or information in accordance with this Agreement) to a Computer outside your Internal Network (including serving content to a live Internet web site).

3.3.3. **Images and Internet Serving.** If you Access Adobe Graphics Server software to serve content to a live Internet web site (or permit others to do so) for any purpose, you may only serve such content to web pages contained under one (1) top-level domain name (e.g., www.adobe.com).

3.3.4. **Additional Limitations.** You may Access Adobe Graphics Server software to deliver content to Computers that are not part of your Internal Network or permit Access to users outside your Internal Network only to the extent that (a) such Access is a component of a broader service or product offering, the purpose and/or effect of which is not to provide the functionality of Adobe Graphics Server software to users outside your Internal Network as an alternative to obtaining a valid license to Adobe Graphics Server software from Adobe, and (b) such Access is not the sole or primary component of such service or product offering.

4. **Evaluation Software.** This Section 4 applies only if you have obtained a valid license to Evaluation Software. In addition to the other terms contained herein, your license to the Evaluation Software is limited to use strictly for your own internal evaluation purposes and not for production purposes, and is further limited to a period not to exceed sixty (60) days from the date you acquire the Evaluation Software. You may Install the Evaluation Software on a total number of Computers not to exceed the Permitted Number, and permit an unlimited number of Authorized Users to Access the Evaluation Software through your Internal Network to deliver content within your Internal Network. No other network use is permitted for Evaluation Software. Your rights with respect to Evaluation Software are further limited as described in Section 16.1.

5. **Development Software.** This Section 5 applies only if you have obtained a valid license to Development Software. In addition to the other terms contained herein, your license to the Development Software is limited to use in your technical environment strictly for testing and development purposes and not for production purposes. You may Install the Development Software on a total number of Computers not to exceed the Permitted Number, and permit an unlimited number of Authorized Users to Access the Software through your Internal Network to deliver content within your Internal Network. No other network use is permitted for Development Software.

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12. **Governing Law.** This Agreement, each transaction entered into hereunder, and all matters arising from or related to this Agreement (including its validity and interpretation), will be governed and enforced by the substantive laws in force in: (a) the State of California, if a license to the Software is purchased when you are in the United States, Canada, or Mexico; or (b) Japan, if a license to the Software is purchased when you are in Japan, China, Korea, or other Southeast Asian country where all official languages are written in either an ideographic script (e.g., hanzi, kanji, or hanja), and/or other script based upon or similar in structure to an ideographic script, such as hangul or kana; or (c) Ireland, if a license to the Software is purchased when you are in any other jurisdiction not described above. The respective courts of Santa Clara County, California when California law applies, Tokyo District Court in Japan, when Japanese law applies, and the competent courts of Ireland, when the law of Ireland applies, shall each have non-exclusive jurisdiction over all disputes relating to this Agreement. This Agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

13. **General Provisions.** If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms. This Agreement shall not prejudice the statutory rights of any party dealing as a consumer. Updates may be licensed to you by Adobe with additional or different terms. The English version of this Agreement shall be the version used when interpreting or construing this Agreement. This is the entire agreement between Adobe and you relating to the Software and it supersedes any prior representations, discussions, undertakings, communications or advertising relating to the Software.

14. **Notice to U.S. Government End Users.** The Software and Documentation are "Commercial Item(s)," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial

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15. **Compliance with Licenses.** To ensure compliance with the terms of this Agreement, Adobe may, no more than once annually, appoint an independent third party to audit and inspect all the Computers and networks on which you (or your contracting parties) install and/or Access the Software. Any such audit shall be conducted at its expense during regular business hours at your offices and shall not unreasonably interfere with your business activities. If such audit shows that you are not using the Software in accordance with the terms of this Agreement, you shall pay the applicable fees for such additional copies within thirty (30) days of invoice, with such underpaid fees being the license fees as per Adobe’s then-current, country specific, price list. If underpaid fees are in excess of five percent (5%) of the value of the fees paid under this Agreement, then you shall pay such underpaid fees and Adobe’s reasonable costs of conducting the audit. Nothing in this Section shall be deemed to limit any legal or equitable remedies available to Adobe for violation of this Agreement.

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16.1. **Evaluation Software.** If the product you have received with this license is Evaluation Software, then your rights under this Agreement will terminate immediately upon the earlier of (a) the expiration of the sixty (60) day evaluation period described in Section 4 of this Agreement, or (b) such time that you purchase a license to a non-evaluation version of such product. Adobe reserves the right to terminate your license to Evaluation Software at any time in its sole discretion. You agree to return or destroy your copy of the Evaluation Software upon termination of this Agreement for any reason. To the extent that any provision in this Section is in conflict with any other term or condition in this Agreement, this Section shall supercede such other term(s) and condition(s) with respect to the Evaluation Software, but only to the extent necessary to resolve the conflict. YOU ACKNOWLEDGE THAT THE EVALUATION SOFTWARE AUTOMATICALLY PLACES VISIBLE WATERMARKS ON CONTENT PROCESSED BY SUCH SOFTWARE AND IT WILL CONTINUE TO DO SO UNTIL SUCH TIME THAT YOU PURCHASE A LICENSE TO A FULL RETAIL VERSION OF THE SOFTWARE. ADOBE IS LICENSING THE SOFTWARE ON AN “AS IS” BASIS, SOLELY AS A DEMONSTRATION MODEL. ADOBE DISCLAIMS ANY WARRANTY OR LIABILITY OBLIGATIONS TO YOU OF ANY KIND, INCLUDING, WHERE LEGALLY LIABILITY CANNOT BE EXCLUDED FOR PRE-RELEASE SOFTWARE, BUT IT MAY BE LIMITED, ADOBE’S LIABILITY AND THAT OF ITS SUPPLIERS SHALL BE LIMITED TO THE SUM OF FIFTY DOLLARS (U.S. \$50) IN TOTAL.

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