



SOFTWARE LICENSE AGREEMENT

TERMS AND CONDITIONS

1. Omitted

2. Definitions

- 2.1 "**Agreement**" means all attachments and exhibits attached hereto and all specifications, drawings, notes, instructions and other written materials and information referred to therein, shall apply to the acquisition of the Software and Services described herein and are incorporated herein.
- 2.2 "**Acceptance Date**" means the date upon which Adobe formally acknowledges acceptance Software after the Delivery Date.
- 2.3 "**Affiliate**" means any other entity that controls, is controlled by, or under common control of Adobe. 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.
- 2.4 "**Authorized Users**" means employees and individual contractors (i.e., temporary employees) of Adobe and its Affiliates.
- 2.5 "**Computer**" means one or more central processing units ("CPU") in a hardware device (including hardware devices accessed by multiple users through a network ("Server")) that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions.
- 2.6 "**Documentation**" means the user manuals and/or technical publications as applicable, relating to installation, use and administration of the Software.
- 2.7 "**Illicit Code**" means any anomalies or computer instructions in or with Software that are not intended to provide the functionality and features defined in the Documentation and applicable specifications and that interfere with Adobe's right to quiet enjoyment of the license to such Software granted by this Agreement. Illicit Code includes: (a) viruses, trojan horses, worms, authorization strings and other similar malicious code; (b) any self-destruction mechanism; and (c) any copyright protection or license manager mechanism. Illicit Code shall not be construed to mean errors or omissions in the computer instructions intended to provide functionality defined in the Documentation, except that code that otherwise fits the description above and also produces such errors or consists of such omissions shall still be considered Illicit Code.
- 2.8 "**Internal Network**" means Adobe's private, proprietary network resource accessible only by Authorized Users. "Internal Network" specifically excludes the Internet (as such term is commonly defined) or any other network community open to the public, including membership or subscription.
- 2.9 "**Licensors**" means the party from whom Adobe is purchasing the Services, Software, and/or Support.
- 2.10 "**Open Source Code**" means source code or other software which is licensed or otherwise provided pursuant to terms that create, or purport to create, obligations for Adobe to grant, or purport to grant, to any third party any rights or immunities under Adobe or its licensor's intellectual property or proprietary rights in intellectual property owned or licensed by Adobe (including such intellectual property developed by Licensor and assigned or otherwise transferred to Adobe under this Agreement).
- 2.11 "**Release**" means a substantial improvement in user functionality that is marketed by Licensor as a new and improved Software product, or a version of the Software that replaces previous Releases. Substantial improvement must include more than just new hardware support (e.g. devices, drivers, or ports to the Software) and bug fixes.
- 2.12 "**Services**" means the designated Software-related work provided by Licensor, which may include development, training, consulting, support, and/or maintenance.
- 2.13 "**Software**" means Licensor's software products, including documentation customarily provided with the software and any Releases, Updates, and/or Upgrades, solely in object code form, licensed to Adobe under the terms of this Agreement. All such items shall be included in the pricing in the Agreement.
- 2.14 "**Support**" means the maintenance and support services as set forth in Exhibit A.
- 2.15 "**Update**" means functional and/or feature improvements made to the Software at Licensor's discretion, and which are deemed to be paid for hereunder, which are intended to keep the current shipping version of the Software release competitive with related technology in the Software's respective market, including but not limited to bug fixes, performance enhancements, improvements, or error corrections, but excluding Upgrades. Such Updates are typically (but not necessarily) identified by a change in the numbers to the right of the decimal point in the version number of the Software.
- 2.16 "**Upgrade**" means the unique and significant functional and/or feature improvements made at Licensor's discretion that are deemed to be a new software product for which Licensor charges separately, or for which Licensor provides a specific Upgrade path for licenses of previously released Software. Upgrades are typically identified by a change to the left of the decimal point in the version number of the Software.



3 License Grant

- 3.1 Licensor hereby grants to Adobe a non-exclusive, perpetual (unless terminated in accordance with the provisions of Section 6), royalty-free, worldwide license, under all intellectual property rights owned, licensed, or otherwise controlled by Licensor, and embodied in the Software, if it is the case, to: (a) access (for Software as a Service) or install the Software in machine-readable, object code form on computers that are in Adobe's internal networks, for use by up to the number of users or modes for which Adobe has purchased a license, and (b) to copy and internally distribute the Software and associated documentation and technical materials as specified, for Adobe's internal purposes only, including but not limited to the right to: (i) use the Software in web-based applications, (ii) use copies of the Software for internal training, (iii) permit Adobe's subcontractors to exercise Adobe's rights under this Agreement solely in performance of work for Adobe, and (iv) make archival copies pursuant to Adobe's standard backup and archival policies, procedures, and practices. At the time of licensing, all required security keys or authorization codes will be provided to Adobe by Licensor. Adobe acknowledges and agrees that: (x) it may use one security key or one authorization code per copy of the Software licensed, (y) use of the Software is contingent upon payment of fees due in accordance with the terms of this Agreement. Authorized users of the Software shall be permitted to access the Software remotely while telecommuting or while otherwise performing Services for Adobe remotely. Updates and Upgrades to Software shall be made available to Adobe as soon as they are made available to other customers of Licensor.
- 3.2 The Software is licensed, and not sold. Licensor retains ownership of the Software and all copies thereof, and reserves all rights not explicitly granted herein. Licensor acknowledges and agrees to comply with Exhibit A.
- 3.3 Except as otherwise permitted hereby, Adobe will not (and will not allow any third party to) lease, license, sublicense or encumber the Software, or any portion thereof. Except to the minimum extent necessary to comply with applicable law, Adobe will not (a) decompile, disassemble, or reverse engineer any portion of the Software, (b) modify or prepare derivative works of the Software, or (c) permit third parties to use the Software as part of a service bureau.

4 License Fees

- 4.1 All applicable taxes, including but not limited to sales and use taxes, gross receipts taxes and other charges such as duties, customs, tariffs, imposts, and government-imposed surcharges, shall be separately stated. Licensor shall remit all such charges to the appropriate tax authority unless Adobe provides sufficient proof of tax exemption. When property is

delivered and/or Services are provided or the benefit of Services occurs within jurisdictions in which Licensor collection and remittance of taxes is required by law, Licensor shall have sole authority for payment of said taxes to the appropriate tax authorities. If Licensor does not collect taxes from Adobe, and is subsequently audited by any tax authority, Adobe's liability will be limited to the tax assessment, with no reimbursement of Licensor for any penalty or interest charges. Each party is responsible for its own income taxes or taxes based upon gross revenues, including but not limited to business and occupation taxes.

- 4.2 To the extent this Agreement includes transfers of licenses for Software to be used in web-based e-commerce or e-business solutions, or web-related Services fees, including but not limited to hosting fees, data or storage fees, and related Services, and such Services are determined to be taxable or to become taxable as of an ascertainable future date, Licensor will collect such taxes as are determined to be due from Adobe, or Adobe's resellers if applicable, and will remit the same to the appropriate taxing authorities. In the case of taxes imposed on the gross revenues resulting from the provision of such Services, Licensor will remit such taxes to the taxing authority before any deduction for Adobe's share of the Services.
- 4.3 Additional costs, except those agreed to in writing will not be reimbursed without Adobe's express, prior written agreement.

5 Invoicing and Payment

- 5.1 Unless otherwise expressly provided or for countries where hardcopy invoicing is mandatory per local regulations, invoices must be submitted electronically via Ariba Network ID or Interactive PO invoicing link (Received via email).
- 5.2 Adobe's payment shall not constitute acceptance of Software or Services.
- 5.3 Licensor shall be solely responsible for and shall indemnify and hold Adobe harmless for any claims for payments due to consultants or subcontractors of Licensor utilized in the performance of Services.
- 5.4 Licensor agrees to invoice Adobe no later than one hundred eighty (180) days after the Acceptance Date for Services or Software. Adobe shall not be obligated to make payments against any invoices submitted after such period. To enable payment, Licensor will input Licensor's information and compliance related information in an online vendor onboarding portal designated by Adobe and will update such information periodically as requested by Adobe.

6 Term and Termination

- 6.1 The term of this Agreement (the "Term") shall commence upon the effective date and shall continue until it has been terminated in accordance with the terms of this Agreement.



- 6.2 Adobe may terminate this Agreement hereunder in whole or in part, at any time for its sole convenience by giving advance written notice of termination to Licensor. Upon Licensor's receipt of such notice, Licensor shall, unless otherwise specified in such notice, immediately stop all work previously authorized and give prompt written notice to all of its suppliers and subcontractors to cease all related work and shall cause them to cease such work.
- 6.3 Either party may terminate this Agreement if the other party materially breaches any of its material obligations of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of the breach.
- 6.4 There shall be no termination charges for Services not yet provided, or for Software not yet provided or not yet accepted. Adobe will be responsible for payment of all Services provided and all Software that has been accepted by Adobe prior to the effective date of termination.
- 6.5 Upon termination of this Agreement by Licensor for Adobe's breach in accordance with Section 6.3, Adobe shall cease all use of the Software, and shall promptly return if it is the case all copies of the Software to Licensor, or else destroy those copies and provide assurances to Licensor that it has done so.
- 6.6 Termination is not an exclusive remedy for breach and is in addition to other rights or remedies that may be available.

7 Delivery and Scheduling

- 7.1 Licensor shall use all commercially reasonable efforts to deliver the Software per Adobe's requested delivery date ("Delivery Date") as set forth herein. Licensor shall deliver the Software or provide access to the Software as a Service in electronic form.
- 7.2 Licensor shall promptly perform Services as scheduled. Licensor shall promptly notify Adobe if it is unable to perform any scheduled Services and shall state the reasons for such inability.
- 7.3 Adobe may reschedule any Delivery prior to the Delivery Date at no additional charge by providing Licensor with prior written notice.
- 7.4 Adobe may place any portion of a delivery on hold by written notice, which shall take effect immediately upon receipt. Any deliveries placed on hold will be rescheduled or terminated in accordance with Section 6 within a reasonable time.
- 7.5 Adobe shall have no obligation with respect to the purchase of Software or Services under this Agreement until such Software or Services are received by Adobe on the Delivery Dates for such ordered Software or Services.

8 Warranty and Disclaimer

- 8.1 Licensor represents and warrants to Adobe that the Software and Services furnished hereunder for the entire term of the license following delivery or provision of access to Adobe:
- 8.2 The Software licensed in this Agreement is free from significant programming errors and defects in workmanship and materials, and substantially complies with functionality and performance set forth in Licensor's published specifications or as otherwise expressly agreed in writing.
- 8.3 The Software is free from any Illicit Code or Open Source Code at the time of delivery to Adobe.
- 8.4 The Services shall be provided in a workmanlike and competent manner in accordance with the professional standards in Licensor's trade or industry, and shall meet the descriptions, specifications, and the performance standards stated herein.
- 8.5 If the Software fails to conform to the foregoing warranties, Licensor shall promptly correct any non-conforming Software. Licensor shall pay the cost of shipping and risk of loss for all non-conforming Software. This Section states Adobe's sole remedy and Licensor's sole liability with respect to any failure of the Software to conform to the foregoing warranties.
- 8.6 If the Services fail to conform to the foregoing warranties, Licensor shall promptly re-perform the Services without any additional charge to Adobe in a manner to cause such services to conform to the foregoing warranties.
- 8.7 EXCEPT AS SPECIFICALLY SET FORTH HEREIN, ALL SOFTWARE, DOCUMENTATION AND SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. EXCEPT AS SET FORTH HEREIN, LICENSOR AND ITS LICENSORS MAKE NO WARRANTY OF ANY KIND. EXCEPT AS SET FORTH HEREIN, SUPPLIER AND ITS LICENSORS MAKE NO OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE REGARDING THE SOFTWARE, DOCUMENTATION, OR SERVICES PROVIDED UNDER THIS AGREEMENT, AND LICENSOR SPECIFICALLY DISCLAIMS THE STATUTORY WARRANTY AGAINST NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

9 CONFIDENTIALITY AND PUBLICITY

- 9.1 During the term of this Agreement, either party may be provided access to the other party's non-public, technical and non-technical, oral and written information whether in printed, textual, graphic or electronic form including but not limited to data, designs, specifications, processes, and all other business, product, and financial information ("Confidential Information"). The receiving party agrees to maintain the disclosing party's Confidential



Information in accordance with the terms of this Agreement, and in accordance with the terms of any separately executed nondisclosure agreement between the parties.

- 9.2 Confidential Information does not include any information that the receiving party can demonstrate by competent evidence was: (a) known to it prior to its disclosure by the disclosing party; (b) is or becomes known through no wrongful act of the receiving party; (c) has been rightfully received from a third party with the right to make such a disclosure; (d) is independently developed by the receiving party without the use of the disclosing party's Confidential Information; or (e) has been approved for release by the disclosing party's prior written authorization. Notwithstanding the foregoing, the receiving party may disclose the disclosing party's Confidential Information pursuant to the terms of a court order or as otherwise required by law, provided that the receiving party provides prompt advanced notice to the disclosing party to enable the disclosing party to seek a protective order or otherwise limit or prevent the disclosure.
- 9.3 Receiving party agrees to: (a) maintain disclosing party's Confidential Information in confidence and limit disclosure on a need-to-know basis, (b) take all reasonable precautions to prevent unauthorized disclosure, and (c) treat such information as it treats its own comparably sensitive information, until the Confidential Information no longer meets the definition of Confidential Information as set forth in this Agreement through no fault of Receiving party. Each party hereby represents that it has entered into a written agreement with each of its employees requiring them to maintain in confidence the confidential information of third parties that said employees receive in the course of their employment.
- 9.4 Each party agrees that it will not disclose the existence of this Agreement, or any of its provisions, to any third party without the specific, prior, written consent of the other party hereto. If disclosure of this Agreement, any of its terms, or any other Confidential Information disclosed hereunder is required by applicable law, rule, or regulation, or is compelled by a court or government agency, authority or body, then the following provisions shall apply: (a) the parties shall use all legitimate and legal means to minimize the disclosure to third parties of the contents of this Agreement, including but not limited to seeking a protective order; (b) the party being requested to disclose the terms of this Agreement or other Confidential Information shall inform the other party as soon as possible following the receipt of the notice purporting to require disclosure, but in no event less than ten (10) business days in advance of the disclosure; and (c) the party from whom disclosure is sought shall give the other party a reasonable opportunity to review and comment upon the disclosure, and any request for confidential treatment or a protective order pertaining thereto, prior to making

the disclosure. The parties may disclose the terms of this Agreement in confidence to their respective legal counsel, accountants, bankers, and financing sources as necessary in order to obtain services from such third parties. The obligations stated in this Section shall survive the termination of this Agreement. Neither party may use the other party's name or trademarks in advertisements, brochures, banners, letterhead, business cards, reference lists, or similar communications without the other party's prior written consent.

10 INTELLECTUAL PROPERTY INDEMNIFICATION

- 10.1 Licensor shall defend, indemnify and hold Adobe harmless from any costs, expenses (including reasonable attorneys' fees) incurred as a result of any claim by a third party of any alleged or actual infringement of any copyright, trade secret, trademark, or patent by the Software or Services. Licensor shall have sole control of the defense of any such action, provided, however, that Adobe may participate in the action at its own expense. Any settlement of the action that requires Adobe to surrender any rights shall require Adobe's prior consent. Adobe shall provide Licensor with all reasonable assistance and information with respect to any such claim, at Licensor's expense.
- 10.2 Notwithstanding the foregoing, Licensor shall have no liability for any claim of infringement to the extent it is based on: (a) the use by Adobe of any specified release of any Software beyond a reasonable transition period after Licensor notifies Adobe in writing that continued use of the specified release may subject Adobe to such claim of infringement, provided that (i) no later than the date of the notice, Licensor has provided Adobe with a replacement release of the affected Software that has performance, features, and functionality at least equal to the Software release being replaced, and (ii) such claim of infringement would have been avoided by the use of such replacement release; and (b) the modification of any of the Software by anyone other than Licensor, or an agent of Licensor, or pursuant to Licensor's instructions.
- 10.3 If a third party's claim endangers or disrupts Adobe's use of the Software, Licensor shall, at no charge to Adobe, (a) obtain a license so that Adobe may continue use of the Software, (b) modify the Software to avoid infringement without impairment of the functionality of the Software, or (c) replace the Software with a compatible, functionally equivalent and non-infringing product; or, if options (a) through (c) cannot be accomplished under commercially reasonable terms, (d) terminate this Agreement, and refund to Adobe the amount paid for the Software, minus depreciation on a straight-line five-year basis.
- 10.4 The foregoing provides the entire set of obligations and remedies flowing between Licensor and Adobe



arising from any third party claim of intellectual property infringement by the Software.

11 COMPLIANCE WITH LAWS AND RULES

11.1 Each party shall comply with all applicable national, state, and local laws, executive orders and regulations governing the manufacture, export, transportation, and/or sale of items and/or the performance of services in the course of this Agreement. These may include but are not limited to Department of Commerce Regulations such as U.S. Export Administration regulations, the United States Foreign Corrupt Practices Act of 1977, and regulations of the Securities and Exchange Commission, the Environmental Protection Agency, and Department of Transportation regulations applicable to hazardous materials. Neither Licensor nor any of its subsidiaries will export or re-export any technical data, process, product, or service, directly or indirectly, to any country for which the United States government or any agency thereof requires an export license or other government approval without first obtaining such a license.

11.2 Licensor shall abide by all of Adobe's reasonable rules and regulations provided in writing to Licensor while on Adobe's premises or performing Services.

12 INSURANCE

12.1 Without limiting or quantifying Licensor's liabilities, obligations, or indemnities otherwise assumed by Licensor pursuant to this Agreement, Licensor shall maintain, at its sole cost and expense, commercial general liability and automobile insurance with limits of liability not less than one million U.S. dollars (\$1,000,000) per occurrence and including liability coverage for bodily injury or property damage assumed in a contract or agreement pertaining to Licensor's business and arising out of operating that business or as requested by the applicable law and in strict compliance with the law and this agreement. The above coverage shall name Adobe as an additional insured.

12.2 Licensor shall also maintain statutory Workers' Compensation coverage, including a Broad Form All States Endorsement in the amount required by law, and Employers' Liability Insurance coverage in the amount of one million U.S. dollars (\$1,000,000) per occurrence or as requested by the applicable law and in strict compliance with the law and this agreement. Such insurance shall include an insurer's waiver of subrogation in favor of Adobe.

12.3 If Licensor is providing any professional service to Adobe, Licensor shall maintain Professional Liability Insurance (including errors and omissions coverage) with liability limits not less than one million U.S. dollars (\$1,000,000) or as requested by the applicable law and in strict compliance with the law and this agreement.

12.4 Licensor shall provide Adobe with properly executed Certificates of Insurance prior to commencement of any operation hereunder, and shall notify Adobe, no less than thirty (30) days in advance, of any reduction or cancellation of the above coverages.

13 GENERAL INDEMNIFICATION

Licensor shall defend, indemnify, and hold Adobe harmless from and against any and all claims, liabilities, demands, penalties, forfeitures, suits, judgments, and the associated costs and expenses (including reasonable attorney's fees) resulting from third party claims for death or personal injury (including bodily injury) to any person, destruction or damage to any property, or any violation of law, governmental regulations or orders, arising from Licensor breach of its obligations here or any acts, errors, or omissions by Licensor, its employees, officers, agents, representatives, or subcontractors in the performance of this Agreement, provided that Adobe shall: (a) promptly notify Licensor of such claim or demand; (b) tender sole control of the defense thereof to Licensor and (c) provide Licensor with reasonable assistance and information with respect to any such claim, at Licensor's expense.

14 INDEPENDENT CONTRACTOR

In performing Services under this Agreement, Licensor is an independent contractor, and its personnel and other representatives shall not act nor shall be deemed to be agents or employees of Adobe. As an independent contractor, Licensor shall be solely responsible for determining the means and methods for performing any Services contracted hereunder. Licensor shall have complete charge and responsibility for personnel it employs; however, Adobe reserves the right to instruct Licensor to remove from Adobe's premises immediately any of Licensor's personnel in breach of this Agreement. Such removal shall not affect any obligation of Licensor to provide Services under this Agreement.

15 SECURITY

Licensor acknowledges Adobe's requirement that employees of Licensor performing work at Adobe's facilities who require unescorted access to those facilities shall have no record of assaultive or combative behavior, or theft within the last five (5) years. Licensor understands that such employees may be subject to criminal history investigations by Adobe at Adobe's expense and will be denied access to Adobe's facilities if any such criminal convictions are discovered.

16 LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE SUM OF FEES PAID BY ADOBE DURING THE ONE YEAR PERIOD



IMMEDIATELY PRECEDING THE DATE THE CAUSE OF ACTION AROSE. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE) AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE LIMITATIONS SET FORTH IN THIS SECTION 16 DO NOT APPLY TO ANY INDEMNIFICATION OBLIGATIONS OF LICENSOR, OR TO ANY BREACH OF THE LICENSE RESTRICTIONS BY ADOBE, OR TO ANY BREACH BY EITHER PARTY OF ANY CONFIDENTIALITY RESTRICTIONS. THE PARTIES AGREE THAT THIS SECTION 16 REPRESENTS A REASONABLE ALLOCATION OF RISK.

17 MERGER, MODIFICATION, WAIVER, AND REMEDIES

- 17.1 This Agreement and any nondisclosure, information security agreement contains the entire understanding between Adobe and Licensor with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, dealings, and negotiations. No modification, alteration, or amendment shall be effective unless made in writing, dated, and signed by duly authorized representatives of both parties.
- 17.2 No waiver of any breach hereof shall be held to be a waiver of any other or subsequent breach.
- 17.3 Each party's rights and obligations herein are in addition to any other rights and remedies provided by law or in equity, subject to Section 16 (Limitation of Liability).
- 17.4 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect the validity of the remaining provisions.

18 ASSIGNMENT

Neither party may assign or factor any rights in or delegate any obligations under this Agreement without the written consent of the other, which consent shall not be unreasonably withheld. For purposes of this Section 18, the acquisition, merger, consolidation, or change in control of Adobe or any assignment by operation of law shall not be deemed an assignment that requires Licensor's written consent. Either party may cancel this Agreement for cause should either party attempt to make an unauthorized assignment of any right or obligation arising hereunder. Any attempted assignment in violation of this Section 18 shall be null and void.

19 GOVERNING LAW; CHOICE OF FORUM AND VENUE

This Agreement (including the arbitration agreement in this section where applicable) and all matters relating to this Agreement will be governed by and construed in accordance with the laws in force in:

- (A) the State of California, if Provider's Principal Place of Business is in the United States, Canada, or Mexico;
- (B) Japan, if Provider's Principal Place of Business is in Japan;
- (C) Singapore, if Provider's Principal Place of Business is in a member state of the Association of Southeast Asian Nations (ASEAN) excluding Myanmar, mainland China, Hong Kong S.A.R., Macau S.A.R., Taiwan R.O.C., the Republic of Korea, Bangladesh, or Nepal; or
- (D) England and Wales, if Provider's Principal Place of Business is in Australia, New Zealand, India, Sri Lanka, Myanmar, or any other location not named above.
- (E) The respective courts of Santa Clara County, California when California law applies, Tokyo District Court when Japanese law applies, and the competent courts of London, England, when the law of England and Wales applies, will each have nonexclusive jurisdiction over all disputes relating to this Agreement.
- (F) When Singapore law applies, any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity, or termination, will be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference into this section. There will be one arbitrator, selected jointly by both parties. If the arbitrator is not selected within 30 days of the written demand by a party to submit to arbitration, the Chairman of the SIAC will make the selection. English will be the language of the arbitration.
- (G) Notwithstanding any provision in this Agreement, either party may request any judicial, administrative, or other authority in any other jurisdiction to order any provisional or conservatory measure, including injunctive relief, specific performance, or other equitable relief, prior to the institute of legal or arbitration proceedings, or during the proceedings, for the preservation of its rights and interests or to enforce specific terms that are suitable for provisional remedies.
- (H) This Agreement will not be governed by the conflict of laws rules of any jurisdiction, UCITA, or the United Nations Convention on Contracts for the International Sale of Goods, the application of which are expressly excluded.



20 HEADINGS

The headings provided in this Agreement are for convenience only and shall not be used in interpreting or construing this Agreement.

21 RIGHT TO DEVELOP

Adobe reserves the right to develop, market, distribute, and otherwise commercially exploit software products or firmware products of any type whatsoever, including without limitation independently developed software and/or firmware that are similar to or compete with the Software; provided that all such software and/or firmware products were developed independently by or on behalf of Adobe without the use of any Licensor Confidential Information.

22 NEW DEVELOPMENTS

Adobe and Licensor agree that as of the Effective Date no joint development work or development work by Licensor at Adobe's request is contemplated by this Agreement. If at any time Adobe and Licensor agree to perform such development work, prior to the start of any such development, Adobe and Licensor shall enter into a separate agreement that shall include at a minimum each party's obligations as well as all applicable ownership provisions.

23 CUSTOMS AND EXPORT CONTROL

Adobe and Licensor shall take appropriate steps to ensure that the distribution and export/re-export of the Software will be in compliance with the laws, regulations, order, or other restrictions of the U.S. Export Administration Regulations. Licensor will provide, upon Adobe's written request, all necessary

import and export related information regarding the Software to meet any applicable export or import regulation, including, without limitation, a statement of origin for all Software and applicable documentation for Software that is wholly or partially developed or packaged outside of the country of import.

24 SURVIVABILITY

The following sections shall survive termination or expiration of this Agreement: Sections 2, 3, 9, 10, 11, 13, 16, 17, 21, and 23, and all payment obligations incurred prior to the termination or expiration of this Agreement shall survive any such termination or expiration of this Agreement. In addition, any right or legal obligation of a party contained in any addendum or amendment, which by its express term or nature would reasonably extend for a period beyond the term of this Agreement, shall also survive the termination of this Agreement for such extended period.

25 FORCE MAJEURE

Nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental action, earthquake, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the nonperforming party up to a maximum of forty-five (45) days.

26 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between Adobe and Licensor with respect to the acquisition of the Software and Services described herein and supersedes all prior oral and written communications and agreements relating thereto.



**EXHIBIT A
SUPPORT EXHIBIT**

1. **Compensation.** So long as Adobe pays the fees for Support, Licensor shall provide the Support services set forth in this Exhibit. Adobe shall not be liable for the payment of any fees for Support except for such periods for which it has agreed.

2. **Support.** Provided that Adobe is current with Support payments, Licensor agrees to provide Adobe with the following:
 - a. All Releases, Updates and Upgrades for each Software programmed licensed by Adobe. Releases, updates and Upgrades shall be provided in the form requested by Adobe.

 - b. To the extent Licensor supports the hardware, Licensor shall provide Adobe with system reconfiguration Releases for hardware compatibility and support to ensure that the Software remains compatible with Adobe's operating system software versions to the extent they are officially supported by Licensor.

 - c. Qualified telephone support available during normal Time Zone business hours (8:00 a.m. through 5:00 p.m.) for the Software, excluding holidays. The computing, operating and networking infrastructure of the Networks is monitored 24/7/365 to detect abnormalities. This includes environmental monitoring, network monitoring, load balancing monitoring, web server and database monitoring, firewall services and intrusion detection.

 - d. Email support at the following address:

 - e. Telephone support at the following number:

If the software fails to conform to the specifications set forth herein, Licensor agrees to use commercially reasonable efforts to modify the Software to conform to said specifications, and to respond to general questions from Adobe regarding the use and functionality of the Software, according to the procedure and priority levels set forth below, as determined by Adobe:

Priority Level	Critical	Urgent	Routine
Priority Level Defined (The Software's "Features" and "Functions" as used herein are limited to those described in the Documentation.)	A problem preventing the operation of a major Function	An issue impairing the operation of a major function of the software	A problem impacting a minor, but desired, specified function or feature of the Software.
Response Time	Within one business hour	Within two business hours	Within five business days