



ADOBE – EXHIBIT FOR ONPREMISE SOFTWARE (2013v1)

1. OnPremise Definitions

- 1.1. **Computer:** means a virtual or physical device that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions, consistent with the configuration recommendations in the Documentation, including without limitation desktop computers, laptops, tablets, mobile devices, telecommunication devices, Internet-connected devices, and hardware products capable of operating a wide variety of productivity, entertainment, or other software applications.
- 1.2. **Development Software:** means OnPremise Software licensed for use in a non-production technical environment solely for internal development and testing.
- 1.3. **Disaster Recovery Environment:** means Customer's technical environment designed solely to allow Customer to respond to an interruption in service due to an event beyond Customer's control that creates an inability on Customer's part to provide critical business functions for a material period of time.
- 1.4. **Evaluation Software:** means OnPremise Software licensed for internal evaluation purposes in a non-production environment.
- 1.5. **Internal Network:** means a private, proprietary network resource accessible only by employees and authorized individual contractors (i.e., temporary employees) of Customer. Internal Network does not include portions of the Internet or any other network community open to the public, such as membership or subscription driven groups, associations, and similar organizations.

2. OnPremise Software License and Restrictions.

- 2.1. **License Grant.** Subject to, and so long as Customer complies with, the terms and conditions of this Agreement, Adobe grants to Customer a non-exclusive license to install and use the OnPremise Software on Computer(s) for internal business purposes during the License Term set forth in the Sales Order, (i) in accordance with the terms and conditions of this Agreement, including without limitation, any applicable Documentation and License Metrics, and (ii) for the platforms, configurations, and quantities set forth in the Sales Order. Upon the expiration of the License Term, some or all of the OnPremise Software may cease to operate without prior notice. Upon expiration of the License Term or termination of the license, Customer shall cease use of the OnPremise Software, uninstall all copies of the OnPremise Software from all Computers on which it resides, and destroy or return to Adobe any media containing the OnPremise Software, as well as any related material. This OnPremise Software license grant does not cover software components, modules or other software that may be included in Adobe's electronic delivery of the OnPremise Software that are not identified and purchased by the Customer in the Sales Order.
- 2.2. **Archival and Disaster Recovery.** Customer may make and install a reasonable number of copies of the OnPremise Software for archival purposes and use such copies solely in the event that the primary copy has failed or is destroyed. Customer may also install copies of the OnPremise 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 purposes other than to ensure that the Software is capable of replacing the primary usage of the Software in case of a disaster.
- 2.3. **Outsourcing.** Notwithstanding the OnPremise Software license set forth herein, Customer may sub-license use of the OnPremise Software to a third party contractor solely to operate the OnPremise Software on Customer's behalf, provided that: (a) Customer provides Adobe with prior written notice; (b) Customer is responsible for ensuring that any such contractor agrees to abide by and fully complies with the terms of this Agreement as they relate to the use of the OnPremise Software on the same basis as applies to Customer; (c) such use is only in relation to Customer's direct beneficial business purposes as restricted herein; (d) such use does not represent or constitute an increase in the scope or number of licenses provided hereunder; and (e) Customer remains fully liable for any and all acts or omissions by the contractor related to this Agreement.
- 2.4. **No Unbundling.** The OnPremise Software may include various applications and components, may allow access to content and various services that are hosted on websites maintained by Adobe or its affiliates ("Adobe



Online Services”), may support multiple platforms and languages, and may be provided to Customer on multiple media or in multiple copies. Nonetheless, the OnPremise Software is designed and provided to Customer as a single product to be used as a single product on Computers as permitted herein. Customer may not unbundle the component parts of the Software for use on multiple Computers.

2.5. **Prohibited Use.** Except as expressly authorized under this Agreement, Customer is, as a condition of the license, prohibited from: (i) using the OnPremise Software on behalf of third parties; (ii) renting, leasing, lending or granting other rights in the OnPremise Software including rights on a membership or subscription basis; and (iii) providing use of the OnPremise Software in a computer service business, third party outsourcing facility or service, service bureau arrangement, time sharing basis, or as part of a hosted service.

3. **Update Requirements.** If the OnPremise Software is an upgrade or update to a previous version of the OnPremise Software, Customer must possess a valid license to such previous version in order to use such upgrade or update. All upgrades and updates are provided to Customer subject to the terms of this Agreement on a license exchange basis. Customer agrees that by using an upgrade or update Customer voluntarily terminates Customer’s right to use any previous version of the OnPremise Software. As an exception, Customer may maintain installations of previous versions of the OnPremise Software on Customer’s Computers for a reasonable period of time (but not exceeding one hundred eighty (180) days) after Customer obtains the upgrade or update to assist Customer in the transition to the upgrade or update, provided that Customer’s right to such simultaneous installations does not constitute an increase in the number of copies, licensed amounts or scope of use granted to Customer hereunder.

4. **OnPremise Software Limited Warranty; Remedies**

4.1. **Warranty.** Adobe warrants to Customer that the OnPremise Software will perform substantially in accordance with the Documentation for the ninety (90) day period following delivery of the OnPremise Software. This limited warranty only applies to Indemnified Technology. All warranty claims must be made to the Adobe Customer Support Department within such ninety (90) day period. If the OnPremise Software does not perform substantially in accordance with the Documentation, the entire liability of Adobe and its affiliates and Customer’s exclusive remedy will be limited to either, at Adobe’s option, replacement of the OnPremise Software or refund of the license fee Customer paid for the OnPremise Software.

4.2. **Sample Application Code.** Customer may modify the source code form of those portions of the OnPremise Software programs that are expressly identified as sample code, sample application code, code snippets, ActionScript class files, or sample components (each, “Sample Application Code”) in the accompanying Documentation solely for the purposes of designing, developing, and testing websites and applications developed using Adobe software; provided, however, Customer is permitted to copy and distribute the Sample Application Code (modified or unmodified) only if all of the following conditions are met: (a) Customer distributes only the compiled object code versions of the Sample Application Code with its application; (b) Customer does not include or use the Sample Application Code in connection with any product or application designed for website development; and (c) Customer does not use the Adobe name, logos, icons, or other Adobe trademarks to market its application. Customer agrees to indemnify, hold harmless, and defend Adobe from and against any loss, damage, claims, or lawsuits, including attorney’s fees, that arise or result from the use or distribution of its application.

5. **Compliance.** Adobe may, at its expense, and no more than once every twelve (12) months, appoint its own personnel or an independent third party to verify that Customer’s use of the OnPremise Software, and the amount of deployments or installations of the OnPremise Software by Customer, complies with the terms of this Agreement. Such verification will require Customer to provide raw data from a software asset management tool of all OnPremise Software installed or deployed by or at the direction of Customer, including installation or deployment on Customer’s own servers or on servers provided by third parties, and all valid purchase documentation for all OnPremise Software. Such verification may include an onsite audit conducted at Customer’s relevant places of business upon seven (7) business days’ prior notice, during regular business hours, and shall not unreasonably interfere with Customer’s business activities. If such verification shows that Customer is using a greater volume of the OnPremise Software than what were legitimately licensed, or is deploying or using the OnPremise Software in any way not permitted under this Agreement and which would require additional license fees, Customer shall pay the applicable fees within thirty (30) days of invoice date, with such underpaid fees being the license fees and related maintenance and support fees as per Adobe’s then-current, country specific, list price. If underpaid fees are in excess



of five percent (5%) of the value of the fees paid under this Agreement, then Customer shall pay such underpaid fees and Adobe's reasonable costs of conducting the verification.

