



## 1. General Terms.

Capitalized terms not defined in this Exhibit shall have the same meaning as the terms are defined in the Adobe Master Enterprise Terms (“General Terms”). This Exhibit is incorporated into and governed by the General Terms.

## 2. DEFINITIONS.

- 2.1 “Access” means Customer’s access to Adobe Software and DPS Services via the Internet made available as part of the Digital Publishing Portal or to Customer Content hosted by Adobe as part of the DPS Services.
- 2.2 “Administration Portal” means the DPS Service that allows a Professional Edition Administrator and Enterprise Edition Administrator to create additional Professional Edition Producer and Enterprise Edition Producer accounts, respectively.
- 2.3 “Adobe Content Viewer” means an Adobe-branded digital content viewer application in object code format that displays folio file content, including but not limited to any related Documentation, updates, upgrades, plug-ins, and derivative works not otherwise licensed separately.
- 2.4 “App Builder” means the DPS App Builder Software and Service that provide Customer with an interface to a device-specific application building process. Customer provides branding and application configuration settings. App Builder delivers specific executable images to Customer, ready for submission to a device-specific application store.
- 2.5 “Base Analytics” means the DPS Service that is available to all Contract Customers and Professional Edition Online Customers as part of the DPS Service which allows Customer to view selected reports on application and content use by Customer’s End Users. Base Analytics reports include data provided by the Customer Viewer, so long as such functionality is enabled during the development of the Customer Viewer, and data provided by the Adobe Content Viewer.
- 2.6 “Customer Affiliate(s)” means Customer’s Affiliate that is authorized by Customer to be a User or place orders under the Exhibit. Such entity shall be deemed to be a “Customer Affiliate” only so long as such relationship with Customer exists and it is so authorized by Customer pursuant to Section 3.9 below. Any Customer Affiliate’s Sales Order or addendum to an Sales Order must reference the Exhibit and include Customer’s name, Sales Order number, and Sales Order Effective Date.
- 2.7 “Customer Content” means Customer’s publications or materials generated using the Software and Service intended for use with the Customer Viewer, Adobe Content Viewer, Single-Issue App, Web Viewer, or the related Services, including without limitation the files in .folio format.
- 2.8 “Customer Data” means (a) any and all data and information collected from the Customer Viewer and/or Adobe Content Viewer, including any and all data contained in the Reports(s) and (b) any and all data and information that the Customer chooses to import from Customer’s internal data stores or other sources (including offline sources) into the Reports via the Services.
- 2.9 “Customer Material” means anything Customer provides to Adobe, posts or uploads on Adobe’s servers, and/or that Customer requires Adobe to scan, author, database, utilize, compile, or post, and in all email/direct mail materials Customer provides to Adobe for the purpose of providing the DPS Services to Customer or Customer’s End User’s, including but not limited to products, fonts, photographs, written copy, materials, branding, and trademarks of Customer or Customer’s End Users.
- 2.10 “Customer Viewer” means Customer’s commercially branded and deployed version(s) of the Adobe Content Viewer, in object-code format which can support Single-Issue Apps or Multi-Issue Apps.
- 2.11 “Customer’s End User” means any end user who accesses and uses Customer Content or Customer Viewer.
- 2.12 “Digital Publishing Portal” means singular launch point for Customers to Access the Software and DPS Services.



2.13 “Distribution Service” means the DPS Service that provides hosting and delivery for the Fulfillment of Customer’s .folio files to Adobe Content Viewer, Customer Viewer, or Web Viewer on various devices. The amount of Fulfillments is limited by the volume quantity identified in an applicable Sales Order.

2.14 “DPS” means Adobe’s Digital Publishing Suite.

2.15 “DPS Service” or “DPS Services” means the Adobe Digital Publishing Suite service or services made available to Customer as further described in Section 4.

2.16 “End User Content” shall mean content that Customer permits Customer’s End User to distribute, share, or upload to the DPS Services.

2.17 “Enterprise Edition Administrator” means the individual associated with the Adobe ID used to provision Enterprise Edition Producer accounts through the Administration Portal or as otherwise identified by Customer as its support contact.

2.18 “Enterprise Edition Customer” means the entity listed on an Sales Order.

2.19 “Enterprise Edition Producer” means the individual associated with the Adobe ID used to publish Customer Content to the Distribution Service or build Customer Viewer applications using Viewer Builder.

2.20 “Feedback” means Customer’s feedback on evaluation of the Software, DPS Services, or Reports including without limitation, feedback on features or functionality, usability, specifications, architectural diagrams, APIs and related information, software or hardware compatibility, interoperability, performance, bug reports, test results and documentation requirements, and may also include suggestions or ideas for improvements or enhancements.

2.21 “Fulfillment” means each completed fulfillment or distribution of Customer’s digital publications (such as .folio files) or designated section of such publication to Adobe Content Viewer, Customer Viewer or Web Viewer across supported platforms and devices. If Customer enables the functionality to distribute certain sections within the publication, as designated by Customer, then the publication is deemed to have been completely fulfilled (e.g., a Fulfillment has occurred) when such designated section is fulfilled or distributed to Adobe Content Viewer, Customer Viewer, or Web Viewer. However, the fulfillment or distribution of other sections within such publication is not considered as an additional Fulfillment.

2.22 “Folio Producer Service” means the DPS Service that provides functionality to Customer’s production Users to assemble content, rearrange article order, copy articles between folios, lock folios, edit metadata, publish folios to the Distribution Service, and modify state of published folios.

2.23 “Multi-Issue App” means a multi issue application developed by a Professional Edition Online Customer or a Contract Customer using the App Builder pursuant to these Terms of Use.

2.24 “Professional Edition Administrator” means the individual associated with the Adobe ID used to provision Professional Edition Producer accounts through the Administration Portal or as otherwise identified by Customer as its support contact.

2.25 “Professional Edition Online Customer” means the individual associated with the Adobe ID used to purchase the Professional Edition of DPS from the Adobe.com Online Store.

2.26 “Professional Edition Producer” means the individual associated with the Adobe ID used to publish Customer Content to the Distribution Service or build the Customer Viewer using App Builder.

2.27 “Proprietary Rights” means any patent, copyright, trademark, service mark, mask work, moral rights, trade secret, or other intellectual property or proprietary right.

2.28 “Reports” means all graphical or numerical displays of Customer Data that contain Adobe’s proprietary design, look, and feel and that is generated by the Customer and Customer End User’s use of DPS Services.

2.29 “SDK” means any DPS software development kit(s) and application programming interfaces (“APIs”) including but not limited to any associated Documentation, updates, and upgrades provided to Customer under the Exhibit and that may be necessary for interoperation with certain aspects of the DPS Services.

2.30 “Service Commencement Date” means the applicable date upon which the Fees for the Software and DPS Services, as described in the Sales Order, shall begin to accrue.

2.31 “Single Edition Customer” means the individual associated with the Adobe ID used to register for the Single Edition of DPS through Adobe.com.

2.32 “Single-Issue App” means a single issue application developed by a Customer using App Builder pursuant to these Terms of Use.

2.33 “Software” means object code versions of Adobe’s proprietary software applications including without limitation any SDKs (except where specifically excluded), Documentation, updates, upgrades, content files, patches, drivers, fonts, and derivative works which is made available to Customer for licensing (including but not limited to Software provided to Customer on the Digital Publishing Portal or via FTP download).

2.34 “Territory” means territory or region where Customer obtains, uses, or accesses the Software and DPS Services from Adobe or as otherwise stated in the applicable Sales Order. For the purposes of the Distribution Service, the People’s Republic of China is expressly excluded from “Territory.” Adobe currently does not provide the Distribution Service into the People’s Republic of China or any other Territory where importation of foreign publications requires additional licenses.

2.35 “User” means only employees of Customer who are authorized and designated by Customer to Access the Digital Publishing Portal using a Customer Log-in ID and unique password, or authorized by Adobe to use the Software, as applicable.

2.36 “Web Viewer” means an internet browser-based version of the Content Viewer.

### **3. LICENSES.**

#### **3.1 Software and Trial Licenses.**

3.1 (a) License. Subject to Customer’s compliance with the Exhibit (including any additional license restrictions in a Sales Order) and prompt and continual payment, and unless otherwise stated in an Sales Order or a separate agreement, Adobe grants Customer a non-exclusive, non-transferable, limited license under all applicable Proprietary Rights during the Term to Access and use the Software made available by Adobe to Customer within the Territory. Unless otherwise stated, Customer may use such Software solely for the purposes of (i) developing and testing the Customer Viewer or Single-Issue App and (ii) developing the Customer Content. Unless explicitly authorized by Adobe, Customer is not authorized to distribute Software to any third party. If Customer Content includes files in the .folio format, then Customer may only distribute and Adobe is only obligated to fulfill such content through Adobe Content Viewer, Customer Viewer, Web Viewer, or an Adobe authorized viewer. Customer may not distribute the files in .folio format to a third party for the purpose of creating a viewer to such file, distributing such file through the third-party viewer, or otherwise circumvent any digital right management related to such file or the Software.

3.1 (b) Font Software. If Customer has licensed, directly from Adobe, any Adobe font that is identified as “available for licensed DPS users” on Adobe’s website at [http://www.adobe.com/type/browser/legal/additional\\_licenses.html](http://www.adobe.com/type/browser/legal/additional_licenses.html), then Customer may embed copies of the font software into Customer Content solely for the purpose of distributing such embedded font in Adobe’s proprietary file format for DPS (“.folio file”) that is made available to end users for viewing purposes only as part of the Customer Viewer. No other embedding rights are implied or permitted under this license.

3.1 (c) EULA. If any Software is provided pursuant to an end user license agreement (“EULA”), then the terms of such EULA shall control to the extent that the inconsistent terms govern the license of the Software.

#### **3.2 Customer Viewer.**

3.2 (a) Distribution License. During the Term, and subject to Customer’s compliance with the Exhibit, Customer may distribute Customer Viewer (i) to Customer’s End Users via the Internet or a Content Delivery Network (CDN) for them to install and use Customer Viewer, including pre-production, or beta versions thereof, for Customer’s End Users’ internal use; and (ii) distribute and sublicense the Customer Viewer through multiple tiers of distribution in accordance with and pursuant to the Exhibit for purposes of (A) installing the Customer Viewer on or in Customer’s distributor(s) products or

(B) distributing the Customer Viewer to Customer's End Users. Customer shall remain liable for any obligations or liabilities to Adobe arising or resulting from the acts or omissions in breach of these terms and conditions by Customer's distributors.

3.2 (b) Customer EULA. Customer will take all steps necessary to protect Adobe's Proprietary Rights in the Customer Viewer and ensure that such Customer Viewer is distributed to or made available to Customer's End Users under an enforceable end user license agreement or terms of use (such as an app store or marketplace terms of use), in favor of Customer and its suppliers containing terms no less protective of the Software than the Exhibit, including without limitation: (i) a prohibition against distribution and copying, (ii) a prohibition against modifications and derivative works, (iii) a prohibition against decompiling, reverse engineering, disassembling, and otherwise reducing the software to a human-perceivable form, (iv) a provision indicating by Customer and its suppliers ownership of the Software, (v) a disclaimer of indirect, special, incidental, punitive, and consequential damages, (vi) other industry standard disclaimers and limitations, including, as applicable: a disclaimer of all applicable statutory warranties, to the full extent allowed by law, a limitation of liability not to exceed the price of the Customer Viewer, and/or a provision that the end user's sole remedy shall be a right of return and refund, if any, from Customer, and (vii) and terms of conditions notifying the end user of any restrictions including but not limited to the reporting of abuse, copyright infringement, and any other violations related to Customer's Content.

3.2 (c) Upgrades. Customer shall use reasonable efforts to update the Customer Viewer with any updates or upgrades to the Software provided to Customer by Adobe within a reasonable period of time after Customer first receives the applicable update or upgrade.

3.3 Web Viewer; Social Sharing Features; and Redirect Feature. Adobe may make available a Web Viewer for the distribution of certain Customer Content. If Customer elects to use certain features within the Web Viewer, Adobe Content Viewer, or Customer Viewer to allow Customer End User's to share Customer Content, including without limitation, via social media, email, or web address ("Social Sharing Features"), then Fulfillments to the Web Viewer will be calculated against Customer's Fulfillment Bundle (as defined in applicable Sales Order) as follows: Adobe will determine the number of articles per folio in fulfillment for each Customer account for the Web Viewer ("Allotted Number"). Whenever Adobe delivers Allotted Number of articles from the folio into the Web Viewer, Adobe will deduct one (1) Fulfillment against Customer's Fulfillment Bundle. For demonstration purpose, Number of Fulfillment = Quotient of [(total delivered article per folio) / (Allotted Number per folio)].

3.4 Documentation. Customer may make copies of the Documentation for its own internal use in connection with Customer's Access to the Software in accordance with the Exhibit but no more than the amount reasonably necessary.

3.5 Development Subcontractors. Customer may sub-license development of its Customer Viewer to a third-party subcontractor or development contractor to develop the Customer Viewer on Customer's behalf, provided that: (a) Customer is responsible for ensuring that any such subcontractor agrees to abide by and fully complies with the terms of the Exhibit as they relate to the use of the Software on the same basis as applies to Customer; (b) such use is only in relation to Customer's direct beneficial business purposes; (c) such use does not represent or constitute an increase in the scope or number of licenses provided hereunder; and (d) Customer shall remain fully liable for any and all acts or omissions by the subcontractor related to the Exhibit.

3.6 Agency License. Adobe grants to Contract Customer a non-exclusive right to Access and use the Software and DPS Services on behalf of Contract Customer's clients pursuant to the Exhibit, provided that (a) Customer enters into a written service agreement with its client that (i) grants Customer and its distribution partners (such as Adobe) sufficient rights to reproduce and distribute any digital content created under this license and (ii) makes Adobe (as a distribution partner) a third-party beneficiary to such agreement, including a beneficiary of any non-infringement warranties and indemnification provisions; and (b) Adobe may terminate, restrict, or suspend the Fulfillment of any Customer Content or Customer Viewer in accordance with the Master Term, such as for failure to pay fees. Any such viewer and content of Customer's clients are deemed a Customer Viewer and Customer Content, respectively. Contract Customer agrees that (x) the use contemplated in this section is only for the direct benefit of Customer's clients; (y) such use does not represent or constitute an increase in the scope or number of licenses provided hereunder; and (z) Contract Customer shall remain fully liable for any and all acts or omissions by Contract Customer's clients related to the Exhibit. In no event may Customer use the license granted in this Section to act as a reseller of the Software or DPS Services.

3.7 Licenses from Customer.

3.7 (a) Customer grants to Adobe a non-exclusive, royalty-free, perpetual, irrevocable, worldwide limited license to (i) use, copy, transmit, index, aggregate, and/or publicly perform and display Customer Content, Customer Data, and Customer Materials solely to the extent necessary to provide the Software, DPS Services, and Reports to Customer and to enforce its rights set forth hereunder; and (ii) use, copy, transmit, index, model, aggregate, publish, display, resell, and/or distribute information derived from Customer Data, provided that no such use(s) shall include any Customer Data that identifies Customer or Customer's End Users ("Anonymized Data"). Such use of Anonymized Data under 3.9(a)(ii) may include, but is not limited to, web browser, screen resolution, and mobile or tablet device and may be used either alone or in combination with similar data from other customers of Adobe.

3.7 (b) Audience Research. If Customer participates in the audience measurement program such as the Adobe Audience Research for use with Digital Publishing Suite and related DPS Services, then Customer grants to Adobe and its affiliates the non-exclusive, worldwide, royalty-free, limited right to (i) review and/or process Customer Data consistent with the applicable program requirements, (ii) publish Customer's Certified Metrics (defined below) to the program's online interface for Customer review, and (iii) use, copy, transmit, index, model, aggregate (including combination with similar data of other customers of Adobe and its Affiliates), resell, publish and/or display Customer's Certified Metrics to the such interface for review by third parties, including other customers of Adobe and its affiliates. Notwithstanding the foregoing, Customer acknowledges and agrees that, following termination of Customer's license to participate in the audience measurement program, Adobe shall have no obligation to remove Customer's historical Certified Metrics from the program interface. For the purpose of this section, "Certified Metrics" shall mean any metric approved by a Media Rating Council or an accrediting organization which has successfully complied with an Adobe audience measurement program such as Adobe Audience Research.

3.8 Feedback. Customer grants to Adobe a non-exclusive, irrevocable, worldwide, royalty-free right and license to use, reproduce, distribute, make derivative works based upon, publicly display, publicly perform, make, use, sell and export the Feedback, including without limitation the right to sublicense such rights through multiple tiers of sub-licensees. Publisher agrees that it has all rights necessary to provide the Feedback to Adobe and acknowledges that Adobe is in no way obligated to incorporate, use or otherwise acknowledge any Feedback provided by Customer.

3.9 Affiliates. For those Affiliates identified on Customer's Sales Order, Adobe agrees that such Customer Affiliates may place orders under the Exhibit for the DPS Services by executing a mutually agreed-to Sales Order. Each such Affiliate that executes an Sales Order shall be considered a Customer as that term is used in the Exhibit.

### 3.10 Trademark License.

3.10 (a) Definition. "Trademarks" means Adobe, Powered by Adobe, Digital Publishing Suite, and other titles, logos, trademarks, and service marks related to the Software and DPS Services.

3.10 (b) License. Subject to Customer's compliance with the Exhibit, Adobe grants to Customer a worldwide, non-exclusive, non-transferable, non-assignable, non-sublicensable, personal right to use the Trademarks in Customer's publication, and in marketing and advertising materials for the publication, in print or electronic media, and on Customer's website related to the publication to indicate that Customer's publication was created using Adobe Digital Publishing Suite software and services provided under this Sales Order.

3.10 (c) Trademark Usage. Customer may use the Trademarks solely in conjunction with the performance of Customer's commitments to the Exhibit so long as such use also complies with the "Third Party Usage Guidelines for the Powered by Adobe Digital Publishing Suite Logotypes" and the "Adobe Trademark Guidelines for third parties who license, use or refer to Adobe trademarks," available from the Adobe web site (<http://www.adobe.com/misc/agreement.html>). Such guidelines may be revised and updated at any time by Adobe, and Customer shall remain at all times in compliance with the then-current version of the guidelines.

3.10 (d) Restrictions. Use of the Trademarks does not give Customer any right, title, or interest in the Trademarks, other than the license rights granted herein. Customer agrees not to use the Trademarks in any way that will disparage Adobe or its products, injure Adobe's reputation for high quality, or otherwise diminish or damage Adobe's goodwill in the Trademarks or infringe Adobe's intellectual property. Customer acknowledges the validity of the Trademarks and Adobe's sole ownership of the Trademarks, and that Adobe retains all right, title, and interest in and to the Trademarks. Customer recognizes the value of the goodwill associated with the Trademarks, and acknowledges that such goodwill inures exclusively to the benefit of and belongs to Adobe. Customer shall employ best efforts to use the Trademarks in a manner

that does not derogate from Adobe's rights in the Trademarks and will take no action that will interfere with or diminish Adobe's rights in the Trademarks. Customer may not use the Trademarks in any way as an endorsement or sponsorship by Adobe of any product or service. Customer agrees not to adopt or use a trademark, service mark, or any other designation confusingly similar to the Trademarks. If Adobe so requests, Customer agrees to submit to Adobe any uses of the Trademarks for Adobe's approval prior to the dissemination of these materials, such approval not to be unreasonably withheld. Adobe may review Customer's use of the Trademarks at any time to evaluate its compliance with the quality standards described in this agreement. If at any time Adobe determines that Customer is not maintaining adequate quality standards, Customer shall be considered in breach of this agreement and subject to termination pursuant to the Exhibit. Customer must immediately remedy any material deficiencies in its use of the Trademarks upon reasonable notice from Adobe.

3.10 (e) Disclaimer. Adobe makes no warranties of any kind, either express or implied, with respect to the Trademarks. Adobe will not be liable to Customer for any consequential, incidental, or special damages (including loss of business profits) arising from or related to Customer's use of the Trademarks, even if Adobe has been advised of the possibility of such damages. If Adobe provides Customer with a substitute Trademark(s), Customer shall bear all liability for continued use of the previous Trademark(s).

#### **4. DPS SERVICES.**

4.1 License to DPS Services. Subject to compliance with the Exhibit and payment of any associated Fees, Adobe grants to Customer, during the Term, the nontransferable, nonexclusive, Territory-wide limited right:

4.1 (a) For Single Edition Customers: to Access and use of the Digital Publishing Portal, the Folio Producer Service and limited Access and use of App Builder. With respect to App Builder, Single Edition Customers may be required to purchase additional licenses in order to build and distribute the Customer Viewer.

4.1 (b) For all other Customers and Users: (i) to Access the DPS Services through the online interface(s) for DPS, including but not limited to the Digital Publishing Portal; (ii) to use and distribute Base Analytics Reports either internally or externally; and (iii) absent an additional right granted to Customer via a separate agreement for advanced analytics, to use and distribute advanced analytics Reports internally only.

4.1 (c) All such rights in this Section 4.1 are limited to the sole purpose of developing the Customer Content and publishing and distributing the Customer Content with a Customer Viewer or Adobe Viewer.

4.2 License Restriction. Customer agrees not to exceed the maximum number of licensed Users or volume quantity, as applicable to a particular Software or Service that Customer has purchased through an Sales Order. Unless otherwise set forth in an applicable Sales Order, any unused volume quantity commitments shall expire one (1) year from the DPS Services Commencement Date identified in the applicable Sales Order, and shall not carry over or be valid for any other purpose past the end of such year.

4.3 Device-Specific Programs. Customer is responsible for enrolling in any device-specific developer programs at as well as any fees or expenses related to such developer systems. Customer is also responsible for completing any application submission process, including but not limited to the payment of associated fees, required for Customer's applications, such as the Customer Viewer, to appear on the specific device app "store" or marketplace.

4.4 Customer Content. Customer is solely responsible for (a) ensuring that Customer Content or End User Content complies with the laws of all jurisdictions where Customer hosts and distributes the Customer Content or End User Content and where the Customer Content or End User Content is being delivered; and (b) promptly removing such content if Customer is notified or otherwise has reason to believe that such content violates relevant laws. Adobe will not remove Customer Content or End User Content that Adobe hosts on Customer's behalf until (x) Adobe is put on actual notice that such content violates the law; (y) Adobe provides Customer a reasonable opportunity to remove the content; and (z) Customer fails to do so. Upon Customer's failure to cure within a reasonable time upon notice, Adobe has the sole discretion to determine whether to remove the Customer Content stated in the notice or suspend or terminate Customer's license to Access and use the DPS Services. Notwithstanding the foregoing, Adobe may remove any Customer Content without notice and without any liability to Customer if Adobe reasonably believes that the Customer Content violates any applicable laws.



4.5 Analytics. If Customer elects to use Base Analytics or other advanced analytics tools (such as by opt-in to Adobe Audience Research via the Digital Publishing Portal or the Administration Portal), then Customer acknowledges and agrees that its use of such tools is subject to additional terms or separate agreements associated with such tools or services. Users who opt-in to such analytics tools shall only do so on behalf of Customer and Customer shall be responsible for such selection by its Users.

## **5. USE OBLIGATIONS AND RESTRICTIONS.**

5.1 Notice and Takedown. Customer agrees that it shall only make content available that originates with and/or is licensed by Customer for distribution by Customer. It is Customer's sole responsibility to manage any reports of violations reported to Customer (including without limitation privacy notice violations, takedown requests under the Digital Millennium Copyright Act, Title 17, United States Code, Section 512(c)(2)).

5.2 Use Restrictions. Customer may not (c) introduce a virus, worm, Trojan horse, or other harmful software code or similar files that may damage the operation of a third party's computer or property or information; (d) use the DPS Services in any manner that could damage, disable, overburden, or impair any Adobe server, or the network(s) connected to any Adobe server or interfere with any other party's use and enjoyment of the DPS Services; (e) attempt to gain unauthorized access to DPS Services, materials, other accounts, computer systems or networks connected to any Adobe server or to the DPS Services, through hacking, password mining, or any other means; (f) engage in any systematic extraction of data or data fields, including without limitation email addresses; (g) disclose, harvest, or otherwise collect information, including email addresses, or other private information about any third party without that party's express consent; (h) defraud, defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights (such as rights of privacy and publicity) of others; or (i) upload, or otherwise make available, files that contain images, photographs, software, or other material protected by intellectual property laws, including, for example, and not as limitation, copyright or trademark laws (or by rights of privacy or publicity) unless Customer owns or controls the rights thereto or has received all necessary consent to do the same.

5.3 Log-in Information. To Access to and use the DPS Services, Customer may be required to create and/or use its Customer Log-in ID. Customer is responsible for all activity occurring under its Customer Log-in ID. Customer must keep its Customer Log-in ID confidential and not share it with third parties (including without limitation its clients). Adobe has no obligation or responsibility with regard to the Customer's use, distribution, disclosure, or management of Customer Log-in ID. Notwithstanding the foregoing, Adobe may require Customer to change Customer's Log-in ID if it is inconsistent with the terms of the Exhibit. Unless Adobe expressly allows Customer the right to create and manage Adobe IDs through a user account administration panel, Customer may not use another person's account information.

## **6. PAYMENT.**

6.1 Annual Fees. Platform Fees and Fulfillment Fees (collectively, the "Annual Fees") will be invoiced to Customer (a) in the amounts set forth in the Sales Order and (b) in advance of the then current billing Term, beginning on the Service Commencement Date or the anniversary of Service Commencement Date during the applicable Initial Term or Renewal Terms. Annual Fees are non-refundable, even if Customer does not meet the maximum volume for the Fulfillment Fees during the Term of the Sales Order. Adobe reserves the right to change Annual Fees for any automatic Renewal Term upon at least ninety (90) days notice to Customer in advance of the beginning of a Renewal Term.

6.2 Subscription; Renewal. Customer's subscription to the Software and DPS Services may be automatically renewed for a new subscription period of equivalent duration upon the end of then-current subscription period unless Customer provides notice to Adobe not to renew the subscription prior to the end of then-current subscription period. Adobe will make reasonable effort to provide Customer with notice of automatic renewal prior to the end of then-current subscription period. Fees and other prices are subject to change at the end of then-current subscription period.

6.3 Account Renewal. Customer is responsible for tracking Customer's available Fulfillments through the Digital Publishing Portal. If at any time Customer's Fulfillment number is zero (i.e., there is no available Fulfillment; such event is referred to as "Account Renewal"), then Adobe may automatically advance additional Fulfillment Bundles. Such advancement or replenishment of Fulfillments shall be effective as of the date that Account Renewal occurs and not the date of advancement or purchase. These additional Fulfillment Bundles shall expire on the first (1st) anniversary of the effective date of such advancement. Customer shall be solely responsible and liable for any outstanding payments and fees related



to Account Renewal, including without limitation fees for advancing Fulfillments to Customer prior to Customer purchasing additional Fulfillment Bundle so the total available Fulfillment is more than zero. Adobe may also deduct fees for such advanced Fulfillment from Customer's account. Upon Customer's failure to make payment as stated in the Exhibit, Adobe may (a) suspend publication of folios; (b) restrict Fulfillments; (c) suspend Fulfillments; and/or (d) terminate Customer's account.

6.4 Third Party Fees and Expenses. Customer is responsible for payment of any and all fees or expenses related to the procurement of SSL certificates or similar credentials required for Customer's submission of the Customer Viewer (i.e. such as Customer's submission of its Content Viewer to third party app stores and marketplaces) in connection with its use of the DPS Services.

## **7. Customer Intellectual Property.**

Subject to any agreements between Customer and its employer or client, Customer owns all right, title and interest in and to (a) all Customer Data; (b) Customer Content; and (c) Customer Materials, subject to Adobe's underlying P in, and to, the Reports (collectively "Customer Intellectual Property"). For Customer Intellectual Property associated with accounts created by an end user administrator using a user account administration panel, the company, not the individual account user, shall own all right, title, and interest in and to the Customer Intellectual Property. Except as expressly stated herein, this Exhibit do not grant Customer any Proprietary Rights in Customer Intellectual Property. All rights not expressly granted are reserved by Customer and its suppliers.

## **8. PUBLICITY.**

Unless expressly prohibited in an Sales Order, Adobe may identify Customer on Adobe's customer lists and in its marketing and advertising materials, and announce that Customer is an Adobe customer, and reproduce Customer's company name, logo, trademark, trade name, service mark, or other commercial designations in connection therewith. With Customer's prior written consent, Adobe may develop and publish a case study based upon Customer's use of the Software and DPS Services. Such prior consent shall not be required for Adobe to disclose information about Customer in connection with any filings or disclosures required by Adobe under applicable state or federal securities laws.

## **9. PRIVACY.**

9.1 Notice. Customer acknowledges and agrees that Adobe may be processing the Customer Data and serving the Customer Content (as applicable) on behalf of Customer and that, if required by applicable data protection legislation or government guidelines, Customer will inform third parties of the processing and serving of such data and content and ensure that such third parties have given any required consents.

9.2 Privacy Policy. Customer hereby agrees that:

9.2 (a) the Customer Viewer will feature a privacy policy, conspicuously placed as part of the primary interface or other means (i.e. such as a link within a digital publication), that (i) discloses Customer's privacy and data collection practices and (ii) identifies any collection (e.g. via cookies or web beacons) and use of information gathered in connection with third-party services, such as Software and Services;

9.2 (b) as required by applicable laws, regulations, and third party policies (such as app store or marketplace requirements), the Customer Viewer will offer Customer's End Users an opportunity to opt out of (or opt in if applicable law requires) any targeted content serving, and provide a mechanism to opt in or opt out or otherwise comply with such laws, regulations, and third-party policies;

9.2 (c) if Customer collects (or plans to collect) any information from the Customer Viewer or transmits (or plans to transmit) information from any source to Adobe, (i) the privacy policy will contain a statement specifically disclosing such practices (including transmission to a third party service provider) and (ii) as required by applicable laws, regulations, and third party policies (such as app store or marketplace requirements), the Customer Viewer will offer Customer's End Users an opportunity to opt out, opt in, or otherwise comply with such laws, regulations, and third party policies;



9.2 (d) Customer will not transmit, provide, or otherwise make available to Adobe sensitive personal information of its employees, customers, partners or Customer's End Users, which includes but is not limited to information regarding minors, financial information, and medical or health information; and

9.2 (e) Adobe reserves the right to request a change in Customer's privacy disclosures as mandated by law or regulation (including industry self-regulation or practice), upon written notice to Customer, and Customer agrees to cooperate in posting such revised disclosure within fifteen (15) days following receipt of such notice, or within such other time period mutually agreed upon by Parties in writing (email is acceptable).

9.3 Customer is responsible for ensuring and certifying that Customer's privacy statement accurately reflects and is consistent with Customer's data collection practices (including use of third-party services) and its general privacy policy as made available to Customer's End Users. Adobe shall not be liable for any inconsistencies or inaccuracies within any such privacy statements.

## **10. SECURITY.**

As part of the DPS Services, Adobe shall implement reasonable security measures consistent with industry standards to protect Customer Data and Customer Materials from unauthorized access, and, in any event, in a manner at least as protective as Adobe uses to protect its own information of a similar nature. Adobe shall not, under any circumstances, be liable for situations in which the security, stability, or availability of the Service is compromised by (a) Customer, (b) by software, programs, data or other computer information, if any, provided to Adobe by Customer, or (c) by actions Adobe undertakes at the request of Customer.

## **11. TERM AND TERMINATION.**

11.1 Term. Unless otherwise terminated as provided below:

11.1 (a) The term of the Exhibit ("Term") will commence on the Effective Date, and will continue until the expiration, or earlier termination, of the applicable term of the last Sales Order that references the Exhibit, including renewals thereof. The initial term of the Sales Order will begin fifteen (15) days from the Effective Date ("Service Commencement Date") and will expire after the end of the Initial Term Period set forth in the Sales Order ("Initial Term"). Upon expiration of the Initial Term, the Sales Order and the licenses granted herein shall automatically renew for successive periods of twelve (12) months beginning on the anniversary of the Service Commencement Date (each a "Renewal Term"), unless either Party provides written notice to the other Party of its intent not to renew at least thirty (30) calendar days prior to expiration of the Initial Term or any then current Renewal Term. Customer may also indicate a Renewal Term on the Sales Order or as an addendum (or similar amendment) to an existing Sales Order.

11.1 (b) Single Edition. For Single Edition Customers, the Term will commence upon such Customer's initial Access of the DPS Services and will continue for one (1) year from the date of purchase of the Single Edition, unless sooner terminated.

11.1 (c) Professional Edition. For Professional Edition Online Customers, the Term will commence upon payment of a subscription fee as stated in the applicable Sales Order. Additional fees may apply with Customer purchases of additional Fulfillment Bundles or additional Software. The DPS Services available for the Professional Edition Online Customers may be suspended or terminated if such Customer is not current with its payment obligations associated with such DPS Services. If such Customer reaches the limitations stated in the applicable Sales Order such as Fulfillment limitation or user limitation, then such DPS Services may be limited and certain features and functionalities may not be available until such limitation is increased or reset pursuant to the applicable Sales Order. Adobe may either deduct any Fulfillment exceeding the limitation stated in an applicable Sales Order from Customer's subsequent order of DPS Services, or invoice Customer for any Fulfillment exceeding the limitation stated in the applicable Sales Order. Additional fees may apply if Customer lapses in its subscription of DPS Services and later wishes to reactivate the DPS Services.

11.2 Termination or Suspension.

11.2 (a) For Single Edition Customers, Adobe may suspend or terminate all or a portion of the licenses granted herein for any reason upon thirty (30) days written notice.

11.2 (b) If either Party breaches Section 9 (Privacy) of the Exhibit, then the non-breaching Party may terminate the Exhibit and, for Adobe's direct Customer, any corresponding Sales Orders immediately upon written notice to the breaching Party.

11.2 (c) Subject to Customer's good faith dispute of amounts invoiced as Fees, Adobe shall have the right to (i) suspend Customer's Access to the online interface to the DPS Services, including but not limited to the Digital Publishing Portal, if Customer fails to pay Fees within five (5) days following the payment due date; and (ii) suspend performance of the DPS Services and use of the Software to Customer if Customer fails to pay Fees within thirty (30) days following the payment due date. If Customer breaches Section 3 (Licenses), 4 (DPS Services), or 5 (Use Obligations and Restrictions) of the Terms of Use, Adobe may immediately suspend the DPS Services, terminate the license for the Software, and terminate all or a portion of the Exhibit including but not limited to all or a portion of the corresponding Sales Order at Adobe's sole discretion within five (5) days of such uncured breach.

### 11.3 Effect of Termination; Survival.

11.3 (a) Upon any termination or expiration of the Exhibit or an applicable Sales Order, (i) the rights and licenses granted to Customer under the Exhibit will automatically terminate; (ii) Customer will, at its expense, cease developing or distributing any new Customer Content and will uninstall all Software; (iii) the rights and licenses granted to Adobe under Section 3.7(a)(i) will terminate; and (iv) the rights and licenses granted to Adobe under Section 3.7(a)(ii) shall survive.

11.3 (b) As applicable, upon expiration or non-renewal of the Exhibit for either Party's convenience, and for a period of thirty (30) days thereafter, Adobe will make available the Customer Data, Customer Content, and Customer Materials in the form and format then available within the reporting interface(s) for the DPS Services. Any continued use of the Software, and/or DPS Services after termination or expiration shall be charged, in the case of DPS Services, at the greater of the Over-usage rate stated on the Sales Order or Adobe's then current list Over-usage rate, and, in the case of Software, the pro-rated license Fees through the date on which the Software is uninstalled. Further, if Customer does not remove the Software, Customer Data, Customer Content, and Customer Materials, and references or links to the DPS Services within thirty (30) days of termination or expiration of the Exhibit, Customer will be liable for any reasonable associated legal fees and collection expenses incurred by Adobe in recovering amounts due and Adobe shall have the right to remove Customer Data, Customer Content, and Customer Materials from its servers without liability. All provisions of the Exhibit which by their nature must survive termination in order to achieve the fundamental purposes of the Exhibit shall survive any termination or expiration of the Exhibit.

## 12. Customer Warranties.

Customer warrants and represents to Adobe that Customer has sufficient rights to the Customer Content, Customer Data, and Customer Materials, and in anything Customer posts to the Service (whether on Adobe or Adobe-licensed servers); including but not limited to any necessary authorization, release, or clearance related to any rights of ownership, privacy, publicity, or intellectual property; and Customer will not provide Adobe with any Customer Content, Customer Data, and Customer Materials, or any other materials that: (i) infringe any third party's Proprietary Rights; (ii) violate any law, statute, ordinance or regulation, including without limitation the laws and regulations governing export control and email/spam and laws governing content and data privacy; (iii) are defamatory or trade libelous; or (iv) are obscene, or promotes, solicits or comprises inappropriate, harassing, abusive, profane, defamatory, libelous, threatening, indecent, vulgar, or otherwise objectionable or unlawful content or activity; (v) is harmful to minors; (vi) contains any viruses, Trojan horses, worms, time bombs, or any other similar software, data, or programs that may damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, information, or property of another; or otherwise violate the Exhibit.

## 13. Customer's Duty to Indemnify.

Customer agrees to defend any Claim against Adobe (a) that Customer's actions in connection with the Software and DPS Services violate Customer's privacy policy or any third party's rights of privacy, or violate any privacy laws; and/or (b) arising from or relating to the Customer Data, Customer Content, and Customer Materials. If Customer participates in audience measurement programs such as Adobe Audience Research, then Customer further agrees to defend any Claim against Adobe (c) arising from or relating to the Certified Metrics (as the term is defined in Section 3.7(b)). Customer will, in each case, indemnify Adobe (and its directors, employees and agents) against all Damages awarded against Adobe or agreed to in a written settlement agreement signed by Customer arising out of such Claim.

*Third Party Software Notices. In order to accommodate public demand for software that is interoperable with other products and platforms, Adobe, like other commercial software publishers, has designed its products to comply with public standards, and has incorporated code created and licensed by third parties, into its products. The creators of these public standards and publicly available code, as well as other third party licensors, require that certain notices and terms and conditions be passed through to the end users of the software. Such required third party software notices and/or additional terms and conditions are located at [www.adobe.com/products/eula/third\\_party/index.html](http://www.adobe.com/products/eula/third_party/index.html) (or a successor website thereto) and are made a part of and incorporated by reference into this Agreement. Customer acknowledges and agrees that Adobe's licensors (and/or Adobe if Licensee obtained the Software from any party other than Adobe) are third party beneficiaries of this Agreement, with the right to enforce the obligations set forth herein with respect to the respective technology of such licensors and/or Adobe.*

