



PSLT – Adobe Marketo Engage On-demand (2021v1)

1. Compliance with Applicable Rules.

- 1.1 Customer shall, and shall ensure all Users comply with Applicable Rules. “Applicable Rules” means any and all laws, guidelines, regulations, codes, rules, and the Acceptable Use Policy (available at <https://www.adobe.com/legal/terms/aup.html> or a successor website thereto) applicable to Customer’s use of the Products and Services.
- 1.2 Customer acknowledges Adobe is only acting as a “data processor” on behalf of Customer and Customer is the “data controller” or equivalent under applicable privacy and data protection laws (including the General Data Protection Regulation if Customer is a resident of the EU).
- 1.3 Customer shall obtain all necessary clearances, consents and approvals from all individuals that Customer or its Users contact through, or resulting from, the use of the On-demand Services in accordance with Applicable Rules with respect to any data gathered by, incorporated into or uploaded through the On-demand Services.

2. **Usage Rights.** Customer shall not use the On-demand Services in excess of the usage terms and quantities specified in the Sales Order (the “Usage Rights”). If Adobe determines Customer is exceeding its Usage Rights, Adobe will notify Customer in writing (including email) identifying such Usage Rights overage. In each annual period beginning on the License Term Start Date or an anniversary thereof, Customer shall have one consecutive 30-day grace period to bring its usage of the On-demand Services within its Usage Rights. If Customer fails to do so within 30 days, or for subsequent overages within each annual period, Adobe has the right to charge Customer, and Customer agrees to pay on a pro-rata basis with an administrative uplift of up to twenty-five (25) percent, the fees applicable to its higher usage in arrears on a monthly basis at any time.

3. **Data Retention and Destruction.** Subject to applicable Usage Rights, Customer may delete or retain Customer Data and Customer Content during the License Term. After termination of the Agreement, Customer may request Adobe to certify in writing (including e-mail) that Customer Data and Customer Content have been irretrievably deleted.

4. **Professional Services Termination.** Adobe may terminate any Professional Services upon thirty (30) days’ written notice to Customer if Customer’s performance under any applicable Sales Order delays or prevents Adobe from performing its obligations in a timely or effective manner.

5. **License Restrictions.** In addition to the conditions of the licenses granted to Customer and the license restrictions set forth in the General Terms, Customer shall not, and shall ensure that Users do not use or access the Products and Services to build, support, and/or assist a third party in building or supporting products or services competitive to the On-demand Services. If Customer is licensing a HIPAA-ready deployment of the On-demand Services: (a) Customer may not integrate the On-demand Services with any non-HIPAA-ready Products and Services; and (b) Customer must purchase encryption for data at rest for the full License Term of all Sales Orders.

6. **Delivery Errors.** Adobe is not responsible for the non-delivery of email messages that occur due to email address errors, hard bounces, soft bounces, email filters of mail clients, email blacklists, and/or any other similar cause therefor. Any or all of the foregoing can also adversely impact Customer’s email delivery performance in

connection with Customer's use of the On-demand Services, and, in such case, Adobe shall not be liable to Customer or any third party for any such adverse impact.

- 7. Data Privacy Claims & Security Claims.** Data Privacy Claims and Security Claims of the General Terms shall apply to Customer only to the extent Customer has purchased, for an additional fee, high-grade encryption for data at rest for the full License Term of all of Customer's Marketo Engage licenses. Regardless of anything to the contrary herein, Adobe takes no responsibility for any Customer Data or Customer Content elements prohibited by the Acceptable Use Policy.