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417839 - City of Glendale -
Addendum - AZ

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Acrobat.com Additional Terms of Use

Last updated on June 18, 2014. Replaces the May 2, 2013 version in its entirety.

ADOBE ONLINE SERVICES MADE AVAILABLE ON ACROBAT.COM ADDITIONAL TERMS OF USE

Capitalized terms used in these Additional Terms are defined as set forth in the Adobe General Terms of Use ("Terms") or in these Additional Terms.

1. Definitions.

1.1 "FormsCentral Solution" means a website or other offering you develop for a customer that (a) utilizes the FormsCentral; (b) adds material functionality to FormsCentral; and (c) is not competitive with the Services.

1.2 "Information" means personally identifiable information.

1.3 "Participant" means a third party who interacts with the Services as a result of such party's relationship with or connection to you.

2. Use of the Services.

2.1 Authority to Use Services. You represent and warrant that you have all necessary right, power and authority to enter into these Additional Terms and to perform the acts required of you.

2.2 Use on Behalf of Others. You may create and maintain a FormsCentral Solution that you may offer to your customers provided that you agree that (a) you are solely responsible for maintaining the confidentiality of any non-public authentication credentials associated with your or your customer's use of the Services or any FormsCentral Solution; (b) you are solely responsible for maintaining a sufficient number of licenses to the Services to support your FormsCentral Solution; and (c) you will promptly notify our customer support team about any possible misuse of your or your customer's accounts or authentication credentials, or any security incident related to the Services. For the purposes of clarity, if one of your FormsCentral Solutions includes the right for your customer to allow multiple users to access that FormsCentral Solution, you must obtain licenses sufficient to cover those users.

3. Term and Termination.

3.1 These Additional Terms will continue to apply until terminated by either you or Adobe as set forth in the Terms. In addition to the reasons Adobe may terminate these Additional Terms with you as set forth in the Terms, Adobe may terminate these Additional Terms if your Services account is used by any third parties.

3.2 In addition to the sections set forth in Section 10.4 of the Terms, the following sections of these Additional Terms will survive any expiration or termination of these Additional Terms: 1, 3.2, 4, and 7.

4. Information of Participants.

4.1 Your Responsibilities Regarding Information of Participants. As between Adobe and you, you have sole responsibility for any and all Information of Participants used and submitted in connection with the Services, and Adobe has no responsibility in connection thereto. You will comply with all data protection and privacy laws and rules applicable to Information of Participants. You must obtain and maintain consent from Participants (a) to your access, use, or disclosure of Information of Participants; and (b) to Adobe providing the tools for you to perform the actions described herein. You must obtain any authorizations from Participants required to enable Adobe to provide the Services. You will defend, indemnify, and hold harmless Adobe from any claim, suit or

proceeding brought against Adobe by a Participant in connection with any acts or omissions with regards to such Information of Participants.

4.2 Sensitive Information of Participants. In addition to your responsibilities set forth in section 4.1 (Your Responsibilities Regarding Information of Participants), you specifically acknowledge and agree:

(a) you are solely responsible for compliance with the Children's Online Privacy Protection Act of 1998 ("COPPA"), including but not limited to, obtaining parental consent for the collection and use of Information from people under the age of thirteen (13) in connection with use of the Services by you and Participants;

(b) Adobe (i) is not acting on your behalf as a Business Associate or subcontractor as such terms are used, defined, or described in the Health Insurance Portability and Accountability Act of 1996, as amended and supplemented, ("HIPAA") when providing and making available the Services to you; and (ii) solely complies with the privacy and security terms described in these Additional Terms;

(c) you are solely responsible for compliance with HIPAA in connection with Protected Health Information (as such term is defined in HIPAA, the Health Information Technology for Economic and Clinical Health ("HITECH") provisions of the American Recovery and Reinvestment Act of 2009, and regulations promulgated thereunder, as each may be amended from time to time) obtained or used in connection with use of the Services by you and Participants; and

(d) you are solely responsible for compliance with any data protection and privacy laws and rules applicable to other sensitive information, including but not limited to social security numbers, credit card numbers, drivers' license numbers, and bank account information, obtained or used in connection with use of the Services by you and Participants.

4.3 Emails to Participants. Emails related to the Services are generally sent to Participants by you and not by Adobe. As a result, even though certain Participants may have opted-out from receiving communications from Adobe, such Participants may receive certain Services-related emails sent by you. In addition, if applicable, Adobe may send emails to Participants in your name as your agent, at your request, and on your behalf. You are solely responsible for such emails and the contents thereof.

5. Service Specific Terms.

The terms in this section 5 apply only to the specific Services, offerings, or Adobe software, as applicable, set forth below. Notwithstanding anything to the contrary herein, in the event of a conflict between the terms of this section 5 and any other terms and conditions of these Additional Terms, the terms of this section 5 will govern, but only to the extent of such conflict.

5.1 Acrobat.com Web Services. This section 5.1 (Acrobat.com Web Services) applies to you only if you are a developer who accesses the pre-release versions of the Acrobat.com APIs made available to you from time to time by Adobe in connection with Acrobat.com ("Web Services").

5.1.1 License to Web Services. Subject to the terms and conditions of these Additional Terms, Adobe grants you a limited, revocable, non-exclusive, non-transferable license to (a) view the documentation made available to you by Adobe at the Web Services page, currently found at http://www.adobe.com/go/acrobat_com_dev_en ("Web Services Documentation"); and (b) call to and use the Web Services in accordance with the Web Services Documentation and the terms of these Additional Terms. Adobe may terminate the license(s) granted in this section 5.1.1 (License to Web Services) at any time at Adobe's sole discretion. Adobe reserves all rights not expressly granted hereunder.

5.1.2 Your Representations and Warranties Regarding Use of the Web Services and the Web Services Documentation. In addition to your other representations and warranties set forth in these Additional Terms, you represent and warrant the following:

(a) You will prominently display the following notice on your website application that calls to the Web Services ("Your Application"): "Powered by Acrobat.com" ("Notice"). You will ensure that any third party who accesses

and uses Your Application ("Visitors") can conveniently access the URL <https://acrobat.com> from Your Application. The name "Adobe" ("Trademark") is a registered trademark of Adobe, and you acknowledge that your use of the Trademark will not create in you, nor will you represent you have, any right, title or interest in or to the Trademark. You will display the Notice in accordance with Adobe's trademark guidelines, which are currently found at <http://www.adobe.com/go/TMGuidelines>. If Adobe reasonably believes that you have not complied with Adobe's trademark guidelines, Adobe reserves the right to require you to immediately modify your usage of the Notice in order to comply with this section 5.1.2(a), or to terminate such usage;

(b) You will display a privacy policy or otherwise display, in the footer of each Web page of Your Application, information about how you collect, use, store, and disclose data and Information collected from Visitors, including notice, where applicable, that third parties (including advertisers) may serve content and/or advertisements and collect information directly from Visitors and may place or recognize cookies on Visitors' browsers;

(c) You will not attempt to conceal or misrepresent your identity or Your Application's identity when requesting authorization from Adobe to use the Web Services or the Web Services Documentation;

(d) You will require Visitors to create an Acrobat.com account prior to using Your Application;

(e) You will not store Visitor content on your Acrobat.com account on behalf of any Visitor; and

(f) You will not sell, lease, or sublicense the Web Services or the Web Services Documentation or obtain access thereto to derive revenue from the use or provision of the Web Services or the Web Services Documentation, whether for direct commercial benefit, monetary gain or otherwise, unless you obtain Adobe's express prior written consent in the manner set forth in section 5.1.3 (Commercial Developer Applications).

5.1.3 Commercial Developer Applications. If you intend to use the Web Services Documentation and/or the Web Services in a manner that may violate section 5.1.2(f) of these Additional Terms, you may be subject to immediate termination of the license(s) granted to you by Adobe hereunder. You may, however, request from Adobe permission for exemption from section 5.1.2(f) by contacting Adobe at developer@acrobat.com. Please provide a detailed description of Your Application and your intended use of the Web Services and Web Services Documentation. Adobe will review such requests and may provide an exemption in writing from section 5.1.2(f) on a case by case basis at Adobe's sole discretion. If Adobe grants you such exemption from section 5.1.2(f), such exemption may be subject to your compliance with additional requirements set forth by Adobe.

5.2 Group Offerings. This section 5.2 (Group Offerings) applies to you only if you obtained a subscription(s) to the Services (whether under a Promotional Program (as defined below) or otherwise) for a third party individual(s) or from a third party individual ("Group Offering").

5.2.1 Information of Third Party Individuals. If you obtained a subscription to the Service for any third party individual, you represent and warrant you have all rights and permissions necessary to provide any Information of such third parties to Adobe, and you will defend, indemnify, and hold harmless Adobe from any claim, suit or proceeding brought against Adobe by such third party in connection with any acts or omissions with regards to such Information of such third parties.

5.2.2 Group Use. If you obtained a subscription to the Services for any third party individual, you understand that content and workspaces contained in such third party individual's Services account may not be deleted when such individual's subscription to the Services under a Group Offering terminates, and it is your sole responsibility to ensure that such individual deletes any content and workspaces belonging to you from such individual's Services account.

5.3 Promotional Use of Services. This section 5.3 (Promotional Use of Service) applies to you solely if Adobe granted to you special access privileges to the Services under a special program (each, a "Promotional Program").

5.3.1 Promotional Program. In addition to the other terms of these Additional Terms, as a user of the Services under a Promotional Program, your right to access and use the Services under a Promotional Program is limited as provided in the email communication to you from Adobe acknowledging your right to use the Services under

a Promotional Program, or as otherwise provided by Adobe to you upon your enrollment in a Promotional Program (each, a "Promotional Program Communication"). Promotional Programs may be offered by Adobe at a later time with different features or capabilities, for a fee, or not at all, as determined by Adobe in its sole discretion.

5.3.2 Termination of a Promotional Program. Your right to use the Services under a Promotional Program will terminate immediately upon expiration of the limited time period granted in a Promotional Program Communication. In addition, Adobe reserves the right, for any reason in its sole discretion without prior notice, to discontinue or suspend any Promotional Program or your use of the Services under a Promotional Program. Your rights and the rights of Participants to access content submitted to your account and processed by the Services under a Promotional Program may change or terminate, as applicable, immediately upon termination of your right to use the Services under a Promotional Program.

5.4 Adobe SendNow and Adobe Send. When you send a file using SendNow or Adobe Send, the file will be automatically uploaded to Adobe's server, and Adobe will notify your recipients (i.e., Participants) when the file is ready for access and/or download. Your recipients can access and/or download your file by clicking on a link within the email Adobe sends to your recipients. Adobe may collect information regarding the receipt and use by a recipient of a SendNow or Adobe Send file, and Adobe may share such information with you. It is your sole responsibility to notify recipients of such collection and sharing of such information.

5.5 Subscription Services. This section 5.5 (Subscription Services) applies to you solely if you are a purchaser of a subscription to use additional functionality of the Services according to the subscription option to which you subscribe ("Subscription Services").

5.5.1 Termination by Adobe. In addition to the rights Adobe retains in section 3 of these Additional Terms to modify or terminate the Subscription Services, your Services account, these Additional Terms, or these Subscription Services terms, Adobe may also at any time, under certain circumstances and without prior notice, immediately terminate or suspend all or a portion of your account and/or access to the Subscription Services and these Subscription Services terms upon your failure to pay any Subscription Services fees owed by you. Any termination or suspension described in this section 5.5.1 (Termination by Adobe) may be made by Adobe in its sole discretion, without any refund to you of any prepaid Subscription Services fees or amounts, and Adobe will not be responsible to you or any third party for any damages that may result or arise out of such termination or suspension of your account and/or access to the Subscription Services.

5.5.2 Account Reinstatement. Except in the event of certain material breaches by you of these Additional Terms, as determined by Adobe in its sole discretion, you may re-subscribe to the Subscription Services at any time following the termination of your Subscription Services account.

5.6 Adobe FormsCentral. As part of the Services, Adobe may send information (including Information) that you and/or Participants provide to Adobe to third party payment providers such as PayPal Inc., (i.e., Linked Sites), in order to facilitate the payment of products and/or services, including but not limited to information (including Information) to set up your and/or Participant's accounts with a Linked Site and/or prepopulate information reasonably required to purchase products and/or services via the Linked Site.

5.7 Adobe Acrobat.com Services. Adobe scans any content you make available to the Services to help provide the Services (for instance, to enable full text searches of your content). As part of the Services, Adobe also collects information about how you interact with content and aggregates it with similar behavioral data from other users ("Aggregate Behavioral Data"). Such Aggregate Behavioral Data is not tied to any personally identifiable information, and cannot be linked back to you or your content. Adobe uses such Aggregate Behavioral Data to provide and improve the Services and other Adobe products and services.

By making your content available to the Services, you agree and consent to Adobe's scanning of your content and collection, processing and use of Aggregate Behavioral Data, each to provide and improve the Services and other Adobe products and services.

6. Education and School Use.

If you are a teacher, school, or educational institution, you agree that (a) you, and not Adobe, are solely responsible for compliance with COPPA including, but not limited to, obtaining verifiable parental consent concerning collection of students' personal information (Information) as part of provisioning or use of the Services; (b) any collection of student personal information (Information) by you with the Services is done for solely for the use and benefit of the school; and (c) that you will provide parents with information about Adobe's collection, use and disclosure practices, which you will find in these Additional Terms and in the Adobe Online Privacy Policy <http://www.adobe.com/go/privacy> (or any successor website thereto) in your school's Acceptable Use Policy.

7. DISCLAIMER OF WARRANTIES.

In addition to the warranties disclaimed in the Terms, Adobe makes no representation, commitment, or warranty (a) that any services or software similar to the Services or Software will be offered for commercial use; and (b) about any information (including but not limited to Information of Participants) obtained or used in connection with use of the Service by you and Participants.

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Adobe Systems Incorporated: 345 Park Avenue, San Jose, California 95110-2704

Adobe Systems Software Ireland Limited: 4-6 Riverwalk, City West Business Campus, Saggart, Dublin 24

ADDENDUM

This Addendum is made to the Adobe General Terms of Use and Additional Terms (together, the "Agreement"), as such Agreement pertains to the Adobe FormsCentral Service (the "Service"), between The City of Glendale, Arizona ("City") and Adobe Systems Incorporated ("Contractor"). City and Contractor agree as follows:

I. **Conflicts.** The Agreement between the parties is subject to cancellation for conflicts of interest under the provisions of Arizona Revised Statutes ("A.R.S.") § 38-511. City's right to cancel the contract under the provisions of Arizona Revised Statutes ("A.R.S.") § 38-511 will be City's sole and exclusive remedy for any conflicts of interest under such statute, and under no circumstances will Contractor be liable to City or any other party for any damages in connection with such cancellation, including any refund of fees paid by City to Contractor prior the date of cancellation.

II. **Immigration Law Compliance.**

A. Contractor agrees to comply with immigration laws applicable to Contractor in its performance of the Agreement.

B. City's sole and exclusive remedy for Contractor's failure to comply with immigration laws applicable to Contractor in its performance of the Agreement is to cease using the Service and terminate the Agreement according to its terms.

III. **No Other Changes.** Except as otherwise modified herein, the Agreement will continue in full force and effect until expiration or termination in accordance with its terms.

IV. **Entire Agreement.** The Agreement and this Addendum constitute the entire understanding between the parties with respect to the subject matter of the Agreement and Addendum.

V. **Addendum and Agreement Conflict.** In the result of any conflict between the Agreement and this Addendum, the terms of this Addendum prevail.

Eric Piziali

Contractor



City

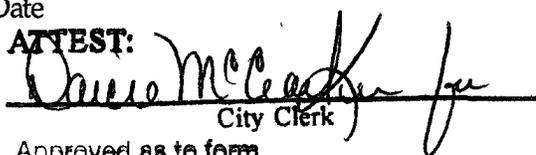
Jul 30, 2014

Date

7-23-14

Date

ATTEST:


City Clerk

Approved as to form

CONFIDENTIAL


City Attorney