

## K-12 (Primary and Secondary) and Higher Education Additional Terms for Student Data

Last updated July 1, 2021. Replaces all prior versions.

These K-12 (Primary and Secondary) and Higher Education Additional Terms for Student Data ("**Student Data Terms**") are entered into between Adobe and Customer, and govern the privacy of Student Data provided to Adobe by Users during the use and deployment of Adobe products and services (the "**Services**") to Students enrolled at qualified Schools in the K-12 (primary and secondary) school or higher education environment. By installing, accessing, or using the Services or allowing any School or User to install, access, or use the Services, Customer (i) agrees to the Terms and (ii) represents and warrants that (a) the Terms comply with its obligations under applicable laws and regulations as well as relevant Customer, School, and local policies, (b) it has the authority to bind to the Terms any School using the Services licensed by Customer, and (c) it shall ensure that any School or User using the Services licensed by Customer complies with the Terms. If Customer does not agree to the Terms, then Customer may not use the Services or permit any School or User to use the Services. The individual completing the on-line enrollment on behalf of Customer represents and warrants that they have the authority to bind Customer to these Terms.

These Student Data Terms are incorporated by reference into the Adobe General Terms of Use ("**General Terms**" or "**TOU**") located at <https://www.adobe.com/legal/terms.html>. These Student Data Terms, the General Terms and the Adobe Value Incentive Plan Terms and Conditions located at <https://www.adobe.com/howtobuy/buying-programs/vip-terms.html> (the "**VIP Terms**") are collectively referred to herein as the "**Terms**." To the extent the provisions in these Student Data Terms conflict with the General Terms, the VIP Terms, or the Adobe Privacy Policy (located at <https://www.adobe.com/privacy/policy.html>), these Student Data Terms will govern. Capitalized terms not defined herein have the meanings ascribed to them in the General Terms.

### 1. Definitions

**1.1. "Adobe"** shall mean (i) Adobe Inc., a Delaware corporation having a place of business at 345 Park Avenue, San Jose, CA 95110-2704, if the Terms are entered into with a Customer that is located in the United States, Canada, or Mexico, (ii) Adobe Systems Software Ireland Limited, a company incorporated in Ireland and having a place of business at 4-6 Riverwalk, Citywest Business Campus, Dublin 24, Ireland, if the Terms are entered into with a Customer that is located outside of North America, or (iii) Adobe Systems Software Ireland Limited, a company incorporated in Ireland and having a place of business at 46 Riverwalk, Citywest Business Campus, Dublin 24, Ireland as authorized agent of Adobe Systems Pty Ltd (ABN 72 054 247 835), if the Terms are entered into with a Customer that is located in Australia.

**1.2. "Customer"** as used in these Student Data Terms is the customer identified on your order documentation as ordering the Services and may include a School or other eligible entity (*e.g.*, in the U.S., an educational agency or institution (as defined in FERPA), school district, or BOCES) that orders Services solely on behalf of a School(s). References to "Customer" in these Student Data Terms shall also include the School or Schools on behalf of which Customer orders the Services if Customer is not a School.

**1.3. "Adult Student"** means a Student who is above the legal age of consent for their applicable jurisdiction. In the United States, this also includes a student who is attending a postsecondary institution at any age.

**1.4. "School"** means a qualified primary or secondary educational institution, as further described at [www.adobe.com/go/primary-secondary-institution-eligibility-guidelines](https://www.adobe.com/go/primary-secondary-institution-eligibility-guidelines), or an institution of postsecondary education, as described at <https://helpx.adobe.com/x-productkb/policy-pricing/education-faq.html>. For example, a K-12 educational institution in the United States, or a college or university in the United States, is a School.

**1.5. "Student"** means an individual enrolled in classes at a School.

**1.6 "Student Assets"** means the files, data, and content generated or created by Students through their use of the Services pursuant to these Terms, excluding any underlying Adobe Software and/or Services.

**1.7 “Student Data”** means Student Personal Information and Student Assets. Student Data does not include any information received by Adobe outside the context of the provision of the Services pursuant to the Terms.

**1.8 “Student Personal Information”** means information provided to the Services by a School, User, parent or legal guardian, or gathered by Adobe during use of the Services pursuant to these Terms, that can be used to identify or contact a particular Student or that, alone or in combination, is linked or linkable to a specific Student so as to allow a reasonable person in the School community, who does not have knowledge of the relevant circumstances, to identify the Student with reasonable certainty or that would otherwise be regarded as personally identifying information relating to a Student under applicable laws. To the extent U.S. law applies, Student Personal Information may include “education records” as defined in FERPA (20 U.S.C. § 1232(g)).

**1.9 “User”** means a Student authorized by Customer to use the Services or an individual employed by Customer or School and authorized by Customer to use the Services for the benefit of the School, *e.g.*, teachers and School or school district administrators or employees.

## **2. Deployment of the Offering; Enterprise IDs or Federated IDs Only**

**2.1 Deployment.** Customer may only order the Services on behalf of School(s) and must deploy the Services using Enterprise IDs or Federated IDs. Use of Enterprise IDs or Federated IDs is essential for Adobe to meet its Student privacy commitments to Customer. Use of Enterprise IDs or Federated IDs also ensures that Customer retains control over the Services and the Student Data provided to or generated through the Services. Any deployment of an individual Adobe ID to a User nullifies any commitment Adobe makes regarding the use and protection of Student Data, and Customer must defend and indemnify Adobe for any privacy or other claims related to Customer’s license deployment using an individual Adobe ID for the Services. More information about ID types is available at <https://helpx.adobe.com/enterprise/using/edu-deployment-guide.html>.

**2.2 Use of the Services.** Customer shall comply, and ensure that all Users of the Services comply, with the applicable provisions of the Terms, including, but not limited to, those governing acceptable use of the Services. Customer shall be responsible for any breach of the Terms by School(s) or Users.

## **3. Authorization of Customer and Data Ownership**

**3.1. Student Data Consents and Authority.** By using the Services and offering the Services to Users, Customer represents and warrants that it has (i) the authority to (a) provide Student Data to Adobe, (b) authorize Adobe to collect Student Data through the Services, and (c) allow Adobe to process Student Data for the purpose of providing the Services, and (ii) provided appropriate disclosures to, and obtained consents from, its School(s), Users, Adult Students, the parents or legal guardians of Students, or any other required individual regarding Schools’, Students’ and Users’ use of the Services, to the extent such disclosures or consents are required by applicable law, Customer or School agreements, or Customer or School policies.

**3.2. Ownership and Control.** Adobe will access and process Student Data for the purposes of providing the Services as described in these Terms. As between Adobe and Customer, Customer owns all right, title, and interest in and to and controls all Student Data processed by Adobe pursuant to the Terms. Adobe does not own, control, or hold a license to such Student Data, except so as to provide the Services and as otherwise described in the Terms.

## **4. Compliance with Laws**

**4.1. Compliance with United States Federal and State Laws.** Each party agrees to uphold its responsibilities under applicable federal and state laws governing Student Personal Information, including, but not limited to, state student privacy statutes, the Family Educational Rights and Privacy Act (“**FERPA**”), 20 U.S.C. § 1232g, the Protection of Pupil Rights Amendment (“**PPRA**”), 20 U.S.C. § 1232h, and the Children’s Online Privacy Protection Act (“**COPPA**”), 15 U.S.C. §§ 6501-6502, and the regulations promulgated under each of FERPA, PPRA and COPPA.

- i. **FERPA Compliance.** To the extent FERPA applies to Customer, Adobe will collect and process Student Data as a "school official" with a "legitimate educational interest" as those terms have been defined under FERPA and its implementing regulations. Adobe agrees to abide by the applicable limitations and requirements imposed by 34 CFR § 99.33(a) on "school officials."
- ii. **COPPA Compliance.** If Customer is located in the United States or if COPPA otherwise applies, to the extent Customer allows Students under 13 years of age to access the Services or any other Adobe application for the use and benefit of School or Students, Customer represents and warrants that it has the authority to provide such consent in accordance with COPPA and allow Adobe to collect and process information from Students under 13 for the purposes described in the Terms. From time to time, Adobe may provide Customer with information regarding its practices related to the collection, use, and disclosure of Student Personal Information that Customer will provide to parents as required under COPPA. Customer will ensure that its configuration of the Services, and the features and functionality of the Services it permits Students under age 13 to access, are appropriate for use in a manner consistent with COPPA, including by deploying as described in Section 2.1 above.

**4.2. Compliance with Applicable Laws.** Customer and the use of Services may also be subject to laws and regulations in the jurisdiction in which Customer is located. Customer is solely responsible for ensuring that it can use the Services consistent with the applicable local laws. In particular, it is the Customer's obligation to (i) determine whether legal obligations arising from such local laws and regulations apply with respect to the use and deployment of the Services, (ii) obtain or have obtained any necessary consents from parents, legal guardians, or Adult Students, to the extent such consents may be required, and (iii) configure the Services such that they are deployed in the School(s) and made available to Students and other Users in a manner consistent with these applicable local laws.

**4.3. Supplemental SOPPA Terms for Illinois K-12 Schools.** Supplemental terms for K-12 Schools located in Illinois are located at [https://www.adobe.com/go/EDU\\_Supp\\_Illinois\\_Terms](https://www.adobe.com/go/EDU_Supp_Illinois_Terms) apply only to K-12 Schools located in Illinois, and are incorporated into these Student Data Terms by reference.

**4.4. Information for New York State K-12 Schools.** If you are a located in the State of New York, please contact Adobe at [nysk12@adobe.com](mailto:nysk12@adobe.com) for additional New York specific terms.

## 5. Use of Student Data

### 5.1. Prohibited Uses of Student Data.

- i. **No Sale or Rental of Student Data.** Adobe will not sell, disclose, transfer, share, or rent any Student Data to any entity other than the Customer, School, Student, parent or legal guardian except in the limited circumstances described in the Terms.
- ii. **No Use of Student Data for Targeted Advertising or Marketing.** Except as noted in Section 5.2 below, Adobe will not use Student Data: (a) to inform or direct targeted online advertising or marketing to Students or to a parent or legal guardian; (b) to amass a profile of a Student, other than for the purpose of providing the Services; or (c) for any other commercial purpose. For purposes of clarity, Customer acknowledges and agrees that Adobe may market or advertise without the use of Student Data, including (1) to parents, legal guardians, Students, and/or Customer or School employees or others, and (2) when based on the context of the domain or the content in view of a Student during a Student's then current visit to an online location; provided, that such advertising or marketing is not based on a Student's online activities collected through the Services over time.

### 5.2. Permitted Uses of Student Data.

- i. **Provision of the Services.** Notwithstanding Section 5.1, Adobe may use, transmit, distribute, modify, reproduce, display, process and store Student Data solely: (a) for the purposes of providing the Services as contemplated by the Terms, (b) for the purposes of maintaining, supporting, evaluating, analyzing, diagnosing, improving and developing Adobe's websites, services, and applications, as permitted by applicable law, (c) for the purposes of

enforcing Adobe's rights under the Terms, (d) as permitted with the consent of the parent, legal guardian, Adult Student, School, User, or Customer, and (e) as otherwise authorized by applicable law.

- ii. **Sharing/Posting of Information By Students.** Please note that, depending on the features and functionality utilized by the Customer or School, some features of the Services may permit Users to share information or post information in a public forum, including Student Data. Customer and School administrative Users should use caution when adjusting permissions and features accessed through the Adobe Admin Console to ensure such permissions and features are configured appropriately for use by Customer, School, Students, and other Users.
- iii. **Adaptive/Customized Student Learning and Recommendations.** Notwithstanding anything to the contrary herein, Customer agrees that Adobe may use Student Data (a) for adaptive or customized student learning purposes, and (b) to recommend educational products or services to parents, legal guardians, and Customer or School employees, so long as the recommendations are not based in whole or in part upon payment or other consideration from a third party.
- iv. **Account Maintenance.** When permitted by law, Adobe may use Student Data to send emails or other communications to Users relating to the operation and use of their accounts and the Services, such as to respond to the specific requests of Users, parents or legal guardians.

## 6. De-Identified Data.

**6.1. Use of De-Identified Data.** Notwithstanding anything to the contrary herein, Customer agrees that Adobe may use and maintain de-identified data. De-identified data includes (i) Student Data from which all direct and indirect identifiers have been removed such that there is no reasonable basis to believe the information can be used to identify an individual and (ii) data relating to access and use of the Services. De-identified data may be used for any lawful purpose, including, but not limited to, the development, research, and improvement of educational sites, services, or applications; to demonstrate the effectiveness of the Services; and to inform, influence, or enable marketing, advertising, or other commercial efforts by Adobe. Unless permitted or required by law, Adobe agrees not to attempt to re-identify any such data. Adobe has no obligation to delete de-identified data.

## 7. Student Data Retention and Deletion

**7.1. Deletion Through Adobe Admin Console.** Customer may access a Student account through the Adobe Admin Console. Customer may use the Adobe Admin Console to adjust permissions and features as well as to modify or delete Student Data throughout the term, including at the request of a Student, parent or legal guardian. It is the responsibility of Customer to delete or remove Student Data from the Services when it is no longer needed for an educational purpose and/or upon termination of an account or Customer's agreement with Adobe.

**7.2. Retention of Student Data; Student Personal Accounts.** After termination of an account or Customer's agreement with Adobe, Adobe will retain Student Data for a reasonable period of time to permit Students to download to and store Student Assets in a personal account. If Customer or Student has not deleted or removed the Student Data through the Adobe Admin Console, Adobe will dispose of or delete Student Data when it is no longer needed for the purpose for which it was obtained.

## 8. Permitted Disclosures

**8.1. Third-Party Service Providers.** Adobe may, from time to time, engage third-party service providers to supply ancillary services in support of the Services provided hereunder. Customer acknowledges and agrees that, provided that they have a legitimate need to access such information in connection with their responsibilities in providing services to Adobe and such access is subject to contractual data protection terms, Adobe may permit its subcontractors, service providers, authorized representatives, and agents to access Student Data.

**8.2. Change in Control.** In the event Adobe sells, divests, or transfers all or a portion of its business assets to a third party, Adobe may transfer Student Data to such third party; provided, that (i) such third party agrees to maintain and provide the Services subject to data privacy standards no less stringent than those set forth herein, or (ii) Adobe gives the Customer notice and an opportunity to opt out of the transfer of Student Data. Notice to the Customer (and not its Schools, as applicable) shall be sufficient for this Section 8.2.

## **9. Student Data Access Requests**

**9.1. Parent Access Requests.** Customer will establish reasonable procedures by which a parent, legal guardian, or eligible Student may request access, correction, or deletion of Student Data generated through the Services. Upon request by the Customer, Adobe will work with Customer and its School(s) as needed to facilitate such access.

**9.2. Third Party Access Requests.** Should a third party, including law enforcement and government entities, contact Adobe with a request for Student Data, Adobe will redirect the third party to request the data directly from Customer, unless and to the extent that Adobe reasonably and in good faith believes that granting such access is necessary to comply with a legal obligation or process or to protect the rights, property, or personal safety of Adobe's users, employees, or others.

## **10. Data Security; Security Events**

**10.1. School Obligations.** Customer, its School(s), and Users will take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the Services and Student Data. Customer will notify or ensure that its School(s) notify Adobe promptly of any known or suspected unauthorized access to Customer's or School's account and/or to Adobe's systems or services. Customer and its School(s) will assist Adobe in any efforts by Adobe to investigate and respond to any incident involving unauthorized access to the Adobe systems.

**10.2. Adobe Obligations.** Adobe has implemented reasonable administrative, technical, and physical security controls to protect Student Data and has provided data privacy and security training to employees who have access to Student Data or relevant system controls. However, despite our efforts, no security controls are 100% effective and Adobe cannot ensure or warrant the security of information. In the event that Adobe determines that any Student Personal Information it has collected or received through the Services was acquired by an unauthorized party (a "**Security Event**"), Adobe will promptly notify the Customer (on behalf of Customer and its Schools) and shall reasonably cooperate with the Customer's and its School's investigation of the Security Event. To the extent the Customer or School determines that a Security Event affects Student Personal Information in a manner that triggers third party notice requirements under applicable laws, the Customer and its School shall be responsible for sending such notices, unless otherwise agreed in writing between Adobe and the Customer. Except as otherwise required by law, Adobe will not provide notice of the Security Event directly to individuals, or parents or legal guardians of such individuals, whose personal information was affected, to regulatory agencies, or to other entities, without first providing written notice to Customer. References to "Customer" in this Section 10.2 shall mean only Customer.

## **11. Miscellaneous**

**11.1. Governing Law.** If Customer is a U.S. public and accredited K-12 (primary and secondary) educational institution then, despite any conflicting language in the General Terms, the Terms are governed by the laws of the state in which such Customer is domiciled, except that body of law concerning conflicts of law. For all other Customers, the governing law is set forth in the General Terms.

**11.2 Headings.** Headings used in these Student Data Terms are provided for convenience only and will not be used to construe meaning or intent.