

Episerver End-User Services Agreement (“EUSA”)

BY ACCEPTING, SIGNING (DIGITALLY OR OTHERWISE), OR IN ANY WAY AFFIRMING THE MASTER SERVICES AGREEMENT (“MSA”) OR ORDER (“ORDER(S)”), OR BY INTERACTING WITH OR IN ANY OTHER WAY USING THE SOFTWARE SERVICES), CUSTOMER ACCEPTS THE TERMS AND CONDITIONS HEREIN. All capitalized terms not defined herein have the meanings attributed in the Order(s).

1. Right to Use the Software Service

1.1 During the Subscription Term, Episerver grants to Customer a non-transferable, non-exclusive, worldwide right to permit for the sole purpose of supporting Customer’s use of Software Services, Customer or Affiliates employees, agents or contractors who work directly for the Customer (“Users”), to access and use the Software Services subject to the terms of the Agreement. Users must be a minimum of eighteen (18) years of age or the minimum local regulatory age of consent.

2. Restrictions and Representations

2.1 Unless explicit contract bound permission is given by Episerver, or to the extent expressly permitted by applicable law, Customer shall not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Software Services or any software, documentation or data related to or provided by Episerver as part of the Software Services (“Software”), or provided by Episerver but not created or owned by Episerver (“Other Software”); (ii) modify, translate, or create derivative works based on the Software Services, Software or Other Software; or copy (except for archival or Episerver-authorized purposes), resell, rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Software Services, Software or Other Software; (iii) use or access the Software Services to build or support, and/or assist a third-party in building or supporting, products or services competitive to Episerver; or (iv) remove any proprietary notices or labels from the Software Services, Software or Other Software. Customer shall use the Software Services, Software and Other Software only for its own internal business operations (including, but not limited to development, support and launching of public-facing websites), and not for the operation of a service bureau or timesharing service.

2.2 Customer and their Users shall abide by the terms and conditions of the Service Level Agreement (“SLA”) applicable to the relevant Software Services. The applicable SLA(s) shall be referenced in the MSA.

3. Ownership and Intellectual Property Rights

3.1 Episerver shall have sole and exclusive ownership of all right, title and interest in and to the Software Services and Software, documentation, all copies, improvements, and derivative works thereof (regardless of form, access or distribution medium in or on which the original and other copies may exist), including all copyright, trademark, patent, trade secret, know-how and other intellectual property rights pertaining thereto, subject solely to the limited right expressly granted to Customer herein. Software, owned by Episerver, is protected by international copyright and intellectual property legislations. Episerver shall retain all rights to its name and trademarks. Except for the limited Software Services granted under the Agreement, the Customer obtains no other rights in or to the Software Services, Software or Other Software. Episerver reserves any rights not expressly granted to Customer under the Agreement. This Section 3 shall survive termination of this Agreement.

3.2 With regard to Other Software and Services, including but not limited to Infrastructure Software / Services and Third-Party Open Software, included in Software Services or Order(s) all mentioned rights in this Section 3 shall be owned by the third-party from whom Episerver has acquired the right to use the Other Software and Services, subject solely to the limited right expressly granted to Customer herein. The structure and code of the Software are valuable trade secrets of Episerver and remain the sole property of Episerver or, respectively the third-party who owns the Other Software and Services.

3.3 Customer owns (or has lawful license to) any data, information or material originated by Customer that Customer submits, collects or provides in the course of using the Software Services, including but not limited to any data or information stored via, on, and/or through the Software Services, and information regarding Customer’s social networking interactions or other contacts activated through use of the Software Services (“Customer Data”). Episerver has no ownership rights in or to Customer Data, however Customer grants permission to Episerver to use Customer Data only as necessary to provide the Software Service to Customer and as permitted by this Agreement. Customer is solely liable for Customer Data and ensuring it does not constitute infringement of a third-party right, or is in conflict with applicable legislation or FUP, the authenticity, accuracy and manner of capture, publication and removal of Customer Data, and Customer or User alterations made in the Software Services (including the Customer’s customizations, edits, modifications, custom coding of Software and/or Software Services, Customer Data is Confidential Information pursuant to Section 7 below. The information or material displayed, generated or collected through Customer’s use of Software Services and any code or software used by Customer not provisioned by Episerver is entirely within Customer’s control, Episerver is not responsible for damages arising out of or related to Customer’s actions, inactions or faults in Customer’s applications, infringement, misappropriation, libel, defamation, privacy or human rights-related claims through Customer’s use of Software Services or Customer Data, information, material, code or non-Episerver software used in or with Software Services.

4. Term, Suspension and Termination

4.1 The Agreement shall commence as of the earlier Effective Date set forth in MSA. Suspension and termination rights for the Agreement are set forth in the MSA and SLA.

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5. Representations, Disclaimer of Warranties, Indemnities, Limitations of Liability

5.1 Episerver warrants it will ensure Software Services perform substantially in accordance with the documentation supplied by Episerver with the Software Services and consistent with generally accepted industry standards. Episerver's sole and exclusive obligation for breach of this limited warranty shall be to use reasonable efforts to remedy or supply a temporary fix or make an emergency bypass. To the extent Episerver cannot perform its obligations according to the forgoing sentence Episerver's maximum liability to Customer per contractual year shall, under all circumstances, shall be an amount corresponding to twelve (12) months fees for the Software Services, which is/are affected by the failure of Episerver's obligations. This limited warranty shall not be valid if the Software Services was subjected to abuse, misuse, accident, alteration or unauthorized modification or installation by Customer. Customer shall report any defects with the Software Service to Episerver as soon as possible after such defect is discovered. Episerver's responsibility does not cover defects due to the Customer's customizations, edits, or modifications of Software Services, Software, Other Software, external service(s).

5.2 Customer shall be responsible and liable for all other, third-party or otherwise, software, components, services, web sites, integrations and code that are not provided by Episerver that Customer opts to use with Software Services. Customer is responsible to ensure that such third-party agreements allow Episerver to carry out Software Services operations, and Software Services used by Customer are not in breach of such third-party agreements nor infringing on intellectual property rights of a third-party. In such case, Customer shall indemnify Episerver from potential infringements in another's right, third-party or otherwise, to such software or services. Excluded from this Section are any service(s) or license(s) specified within the MSA, Order(s) and/or SLA.

5.3 EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, EPISERVER AND ITS THIRD-PARTY PROVIDERS HEREBY DISCLAIM ALL EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, INTEGRATION, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY. THE RELIABILITY, AVAILABILITY, TIMELINESS, SUITABILITY, ACCURACY OR COMPLETENESS OF THE SOFTWARE SERVICES OR THE RESULTS CUSTOMER MAY OBTAIN BY USING THE SOFTWARE SERVICES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING OR EPISERVER SLA OBLIGATIONS, EPISERVER AND ITS THIRD-PARTY PROVIDERS DO NOT REPRESENT OR WARRANT THAT (A) THE OPERATION OR USE OF THE SOFTWARE SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE; OR (B) THE QUALITY OF THE SOFTWARE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. THE SOFTWARE SERVICES MAY BE SUBJECT TO DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND COMMUNICATIONS FACILITIES. THE SOFTWARE SERVICES ARE PROVIDED "AS IS".

5.4 NEITHER PARTY SHALL BE LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY HOWEVER CAUSED FOR: (A) ERROR OR INTERRUPTION OF USE, INACCURACY OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, OR SERVICE OR DATA LOSS, BUSINESS PROFITS OR REVENUE; (B) ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) ANY MATTER BEYOND ITS REASONABLE CONTROL (including, without limitation, acts of God, Government or other regulatory authority, telecommunications network operators, war, national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that Party's workforce)), HOWEVER CAUSED ON ANY OTHER THEORY OF LIABILITY NOT STATED HEREWITHIN AND ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ITS SUBJECT MATTER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

5.5 EXCEPT FOR CUSTOMER'S LIABILITY FOR PAYMENT OF FEES, LIABILITY ARISING FROM OBLIGATIONS UNDER SECTIONS 5.6 AND 5.7, LIABILITY FOR VIOLATION OF EPISERVER INTELLECTUAL PROPERTY RIGHTS, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, IF, NOTWITHSTANDING THE OTHER TERMS OF THIS AGREEMENT, EITHER PARTY IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY OR ANY THIRD PARTY, THE PARTIES AGREE THE AGGREGATE LIABILITY OF A PARTY WILL BE LIMITED TO THE TOTAL AMOUNTS CUSTOMER HAS ACTUALLY PAID FOR SOFTWARE SERVICES IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO A CLAIM.

5.6 Episerver shall indemnify, defend and hold Customer harmless (including Customer's officers, directors, agents, representatives and employees) from any direct: claim, liability, loss, expense or demand, including reasonable legal fees and costs and including without limitation third-party claims based on (a) infringement caused solely by the Software owned by Episerver, as well as, (b) to the extent Episerver is liable, any statutory or regulatory penalty, fee or fine incurred by Customer because of a violation of data privacy and protection laws or regulations. This indemnity requires Episerver receive notice immediately of any third-party claims and is in sole control of the defense of such claim, including but not limited to Episerver's own choice of counsel and any settlement arrangement. Settlements which require Customer consent are those that (i) impose an obligation on Customer; or (ii) require Customer to make an admission. To the extent Customer seeks or will seek indemnity from Episerver in connection with a third-party allegation or claim against Customer, Customer shall not identify Episerver to the third-party without prior consent of Episerver. Further, to the extent Episerver indemnifies Customer under this Section 5, Episerver is not responsible for any fees, expenses, or costs incurred by Customer in its retainer and use of its own counsel. Customer shall comply with reasonable requests from Episerver in connection with Episerver's defense of the claim on which indemnity is based. Should Customer's actions, but not limited to including that of its counsel's, interfere with Episerver's ability to exercise sole control of the defense of the claim on which indemnity is based, Episerver shall be discharged of any further indemnification obligation to Customer.

5.7 Customer shall indemnify, defend and hold Episerver harmless (including Episerver's officers, directors, agents, representatives and employees) from any direct: claim, liability, loss, expense or demand, including reasonable legal fees and costs and including without limitation third-party claims based upon or arises out of (a) unauthorized or illegal use of the Software Service by Customer, (b) use of Non-Episerver Applications, Third-Party Products or Third-Party Sites, or (c) to the extent Customer is liable, any statutory or regulatory penalty, fee or fine incurred by Episerver because of a violation of data privacy and protection laws or regulations. This indemnity requires that Customer receive notice immediately of any



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third-party claims and is in sole control of the defense of such claim, including but not limited to any settlement. Settlements which require Episerver consent are those that (i) impose an obligation on Episerver; or (ii) require Episerver to make an admission.

5.8 If Customer's use of any Software Services is enjoined, or if in Episerver's sole judgment is likely to be enjoined, Episerver may, at its sole option, and expense, and as a complete remedy to Customer, either (a) substitute equivalent non-infringing Software Services for the infringing Software, (b) modify the Software so it no longer infringes but remains functionally equivalent, (c) obtain for Customer the right to continue using such Software, or (d) if Episerver deems none of the foregoing are commercially practicable, terminate the license granted herein with respect to the applicable Software Services, and accept return of the Software Services and grant Customer a pro-rated credit of the unused portion of the fees paid with respect to the Software Services.

5.9 The foregoing provisions of this Section 5 notwithstanding, Episerver shall not have any liability to Customer under Section 5.6(a) to the extent that any infringement or claim thereof is based upon (i) use of the Software Services in combination with equipment or software not supplied hereunder where the Software Services would not itself be infringing, (ii) claims related to Customer Data (iii) use of Software Services in an application or environment for which it was not designed, not provided for in the documentation or not contemplated under this Agreement, (iv) use of other than the most recent release of the Software Services provided to Customer by Episerver, and (v) use of the Software Services in breach of this Agreement.

6. Data Privacy, Protection and Processing

6.1 Each party will comply with all applicable privacy and data protection laws applicable to its location and operations, for example, Customers within scope of the European Union ("EU") shall comply with the EU e-Privacy Directive 2002/58/EC, the General Data Protection Regulation (EU) 2016/679 ("GDPR"), member state implementations thereof and any replacements thereof. If GDPR applies to Customer, Parties shall enter into the data processing agreement ("DPA") referenced in the MSA, whereby Episerver acts as the data processor of Customer Data and Customer remains the data controller of Customer Data for the purposes of European Data Protection Laws. In no case shall third-party integrations or providers engaged by the Customer directly be considered Episerver subprocessors. Parties agree to operate in a manner consistent with the principles of the EU Standard Contractual Clauses (SCCs) where cross EU-US border data processing is required or processing with a country outside of the EU.

6.2 Customer warrants that each Customer website(s) utilizing Software Services contains a privacy policy that discloses the usage of third-party technology and the data collection and usage resulting from the Software Services (it being understood that this Section will not be deemed to require those privacy policies to expressly identify Episerver or any Software Services, unless otherwise required by applicable law and complies with all applicable privacy laws,

6.3 SOFTWARE SERVICES ARE NOT PROVISIONED BY EPISERVER TO COLLECT, MANAGE OR PROCESS SENSITIVE INFORMATION (DEFINED BY APPLICABLE LAW). EPISERVER WILL NOT HAVE ANY LIABILITY THAT MAY RESULT FROM CUSTOMER USE OF THE SOFTWARE SERVICE TO COLLECT OR MANAGE SENSITIVE INFORMATION.

7. Confidential Information

7.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information; and (ii) not to use or divulge to any third person any such Confidential Information except for the Receiving Party's contractors or agents who have agreed in writing to terms protecting such Confidential Information. The foregoing shall not apply to Confidential Information after seven years following the termination of the Agreement. Confidential Information does not include information that (a) is or becomes generally available to the public; (b) was in its possession or known prior to receipt (c) was rightfully disclosed to it by a third-party; (d) was independently developed without use of or reference to any Confidential Information of the Disclosing Party; or (e) is required by law, court order or subpoena. Customer Data will be destroyed as set forth in the SLA. The content of the Agreement, information regarding negotiations, judicial proceedings, awards, settlement amounts or mediation following the Agreement shall also be Confidential Information.

8. Disputes, Venue, Governing Law and Jurisdiction

8.1 All disputes, claims or controversies arising out of or related to this Agreement, including any claims under any statute or regulation, but excluding for any such disputes, claims or controversies arising out of Episerver's intellectual property rights for which a provisional remedy or equitable relief is sought ("Disputes"), shall be submitted first to non-binding mediation. If the Disputes are not resolved through mediation within sixty (60) days, then, upon the election of either Party, the Disputes shall be submitted to the courts in the Jurisdiction and under the Governing Law below.

8.2 Governing Law shall be the respective law indicated below, based on the domicile of Customer. Each Party to the Agreement consents to personal and exclusive jurisdiction for any equitable or other action sought in the location indicated below. Each Party will bear its own costs with respect to any disputes arising under this Agreement, except where such disputes arise from unpaid fees to Episerver, where Customer shall bear all reasonable legal and administrative costs required to collect such unpaid fees. The United Nations Convention on Contracts for the International Sale of Goods, the Uniform Computer Information Transactions Act (as enacted in any jurisdiction), the Uniform Commercial Code (as enacted in any jurisdiction), and the conflict of law rules of any jurisdiction, is expressly excluded.



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If Customer is Domiciled In:	United States of America, Canada, Mexico or any country in Central or South America or the Caribbean	United Kingdom (including England, Northern Ireland, Scotland and Wales), Ireland, Australia and New Zealand	Germany, Austria and Switzerland	Rest of the World
Governing Law:	New Hampshire and controlling U.S. Federal Law.	Laws of England and Wales	Laws and Regulations under Berlin, Germany	Laws of Sweden
Jurisdiction:	U.S. District Court in New Hampshire or any court of the State of New Hampshire having subject matter jurisdiction.	Competent courts of London, England.	Berlin, Federal Republic of Germany	Competent courts of Stockholm, Sweden. English will be the language used.

9. Force majeure

9.1 The Parties are released from liability for sanctions due to omission to fulfil a certain obligation according to the Agreement, if the omission is due to circumstances, which are outside the control of respective Party and which prevent the fulfilment of the obligation. As soon as the obstacle is removed, the obligation shall be fulfilled in the agreed way. Circumstances include will be war, action of war, authority's act or omission, newly added or changed legislation, conflict in the labor market, electrical, internet, or telecommunication outage that is not caused by the obligated Party and therewith equal circumstances. If a Party desires an exemption according to Section 9.1, the requesting Party shall, without delay, give such notice to the other Party. Notwithstanding the foregoing, the Parties have a right to immediately terminate the Agreement if the fulfilment of a certain obligation is delayed more than two (2) weeks. If Customer terminates the Agreement under this Section then all pre-paid, unused fees will be refunded at the date of such termination.

10. Amendment; No Waiver

10.1 Customer will be notified at least ninety (90) days before any changes of these terms and conditions as well as any future price adjustment comes into force. Changes to terms and conditions shall not materially reduce the functionality of the Software Services, nor materially change Section 5,6, 7 and 8 above. Episerver may notify Customer of such new terms and conditions as well as adjustments thereto, via the Customer indicated contact person's email, electronic delivery or in any other way that Parties find suitable. Customer may reject such changes to the EUSA through written notice to Episerver within the ninety (90) day notice period, whereby Customer may terminate the Agreement with no-fault, and be refunded any pre-paid, unused fees, or Customer may remain on the then-current EUSA, however Parties cannot upgrade the Software Service until such adherence to the proposed new EUSA is agreed to. Unless otherwise agreed by Parties, price adjustments shall never occur mid-Subscription Term, and shall only take effect upon a new renewal term.

11. General Provisions

11.1 The Agreement is the Parties' entire understanding relating to the Software Services, and supersedes any prior or contemporaneous, conflicting or additional communications. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

11.2 Use of the Software Services requires Customer and Users to abide by the Episerver Fair Use Policy (<https://www.episerver.com/legal/fair-use-policy>) ("FUP"), and all applicable (i) third-party websites' (including but not limited to social networking) terms and conditions associated with use of any Customer Data; and (ii) laws and regulations, including, but not limited to, those related to spamming, privacy, data protection, intellectual property, consumer and child protection, pornography, obscenity or defamation.

11.3 No joint venture, partnership, employment, or agency relationship exists between the Parties.

11.4 Episerver may audit Customer's use of Software Services, as well as installation and use of Software. Customer shall comply with all reasonable requests for audit assistance. If Episerver has proof of Customer underpayment, Episerver shall notify Customer in writing of this alleged discrepancy and invoiced appropriately.

11.5 All sections of the Agreement which by their nature should survive termination will survive, including without limitation, accrued rights to payment, use restrictions and indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

11.6 Customer shall not assign or transfer this Agreement nor any of the rights or obligations under this Agreement to a non-succeeding or non-acquiring entity without Episerver's prior written consent, and such consent shall not be unreasonably withheld. Any such assignment in violation of this Section will be void. Either Party may assign all or part of its rights under the Agreement to an affiliate or to any entity that succeeds to or acquires all or substantially all of the business or assets of such Party through merger, consolidation, or acquisition of stock or assets. This Agreement is binding on any permitted assignees or transferees.

11.7 The Agreement is for the sole benefit of the Parties hereto and their successors and permitted assigns and nothing herein express or implied shall give or be construed to give any person other than the Parties hereto any legal or equitable rights hereunder.

11.8 All notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) the second business day after mailing or (ii) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to the Customer shall be addressed to the relevant billing contact designated by the Customer.

11.9 Export Compliance. Software Services, Software, and other technology Episerver makes available, and derivatives thereof may be subject to export laws and regulations of the United States, European Union ("E.U.") and other jurisdictions. Each Party represents that it is not named on any U.S. government or EU denied-party list. Customer shall not permit Users to access or use Software Services or Software in a U.S. or E.U. embargoed country or in violation of any U.S. or E.U. export law or regulation.



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11.10 United States (“U.S.”) Government End-User Notice. If Customer is a U.S. Government entity, the Software, and Software Services, is a “Commercial Item”, as that term is defined in as that term is defined at 48 C.F.R. § 2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. § 12.212 and 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. §§ 12.212, 227.7202-1 through 227,7202-4, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users (a) only as Commercial Items and (b) with only those rights as are granted to all other end-users pursuant to the terms and conditions herein.

