

# Prinerger on Demand Services Terms of Use

This Prinerger Cloud Services Terms of Use ("Terms of Use") is between the Kodak entity listed in the Customer Agreement ("Kodak") and the entity that has executed the Customer Agreement to which these Terms of Use are a part ("Customer" or "You"). As pertaining to Cloud Services, in the event of a conflict between the terms set forth in these Terms of Use and terms set forth in Kodak T&C's, the terms in these Terms of Use shall govern.

## 1.0 DEFINITIONS

**"Ancillary Program"** means any software agent or tool owned or licensed by Kodak that Kodak makes available to Customer for download as part of the Prinerger Cloud Services for purposes of facilitating Customer access to, operation of, and/or use with, the Services Environment. The term "Ancillary Program" does not include Separately Licensed Third Party Technology.

**"Client Data"** means, collectively, Your Content and Your Applications.

**"Cloud Services"** means, collectively, both the Prinerger Cloud Services and Professional Cloud Services.

**"Data Center Region"** refers to the geographic region in which the Services Environment is physically located. The Data Center Region applicable to the Prinerger Cloud Services is set forth in the Service Description and Specifications.

**"Kodak Programs"** refers to the software products owned or licensed by Kodak to which Kodak grants You access as part of the Prinerger Cloud Services, including Program Documentation, and any program updates provided as part of the Prinerger Cloud Services. The term "Kodak Programs" does not include Separately Licensed Third Party Technology.

**"Personal Data"** means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**"Prinerger Cloud Services"** means, collectively, the cloud services (e.g., Kodak software as a service offerings and related Kodak Programs) and further defined in the Service Description and Specifications. The term "Prinerger Cloud Services" does not include Professional Cloud Services.

**"Professional Cloud Services"** means, collectively, the consulting and other professional services. Professional Cloud Services include any deliverables described in the Customer Agreement and delivered by Kodak to You. The term "Professional Cloud Services" does not include Prinerger Cloud Services.

**"Program Documentation"** refers to the program user manuals, if any, referenced within the Service Description and Specifications for Prinerger Cloud Services, as well as any help windows and readme files for such Kodak Programs that are accessible from within the Services. The Program Documentation describes technical and functional aspects of the Kodak Programs.

**"Separate Terms"** refers to separate license terms that are specified in the Program Documentation, Service Description and Specifications, readme or notice files and that apply to Separately Licensed Third Party Technology.

**"Separately Licensed Third Party Technology"** refers to any third party technology that is licensed under Separate Terms and not under the terms of the Customer Agreement.

**"Service Description and Specifications"** means the descriptions within Prinerger On Demand Cloud Service Description and Specifications, or such other address specified by Kodak, that are applicable to the Cloud Services.

**"Services Environment"** refers to the combination of hardware and software components owned, licensed or managed by Kodak to which Kodak grants You and Your Users access as part of the Prinerger Cloud Services. As applicable and subject to these Terms of Use, Kodak Programs, Third Party Content, Your Content and Your Applications may be hosted in the Services Environment.

**"Subscription Term"** has the meaning ascribed to it in the Customer Agreement.

**"Third Party Content"** means all text, files, images, graphics, illustrations, information, data, audio, video, photographs and other content and material, in any format, that are obtained or derived from third party sources outside of Kodak and made available to You through, within, or in conjunction with Your use of, the Prinerger Cloud Services.

**"Users"** means those employees, contractors, and end users, as applicable, authorized by You or on Your behalf to use the Prinerger Cloud Services in accordance with these Terms of Use.

**"You" and "Your"** refers to the entity that has executed the Customer Agreement.

**"Your Applications"** means all software programs, including any source code for such programs, that Your Users utilize while using the Prinerger Cloud Services. Cloud Services under these Terms of Use, including Kodak Programs and Services Environments, Kodak intellectual property, and all derivative works thereof, do not fall within the meaning of the term "Your Applications."

**"Your Content"** means all text, files, images, graphics, illustrations, information, data (including Personal Data), audio, video, photographs, commercial information, and other content and material (other than Your Applications), in any format, provided by You or Your Users that reside in, or run on or through, the Services Environment.

## **2.0 RIGHTS GRANTED**

2.1 For the duration of the Subscription Term and subject to Your payment obligations, and except as otherwise set forth in the Customer Agreement, You have the non-exclusive, non-transferable, non-assignable, royalty free, worldwide limited right to access and use the Cloud Services that You ordered, including anything developed by Kodak and delivered to You as part of the Cloud Services, solely for Your internal business operations and subject to the terms of the Customer Agreement, including the Service Description and Specifications. You may allow Your Users to use the Cloud Services for this purpose and You are responsible for Your Users' compliance with these Terms of Use.

2.2 You do not acquire under the Customer Agreement any right or license to use the Cloud Services, including the Kodak Programs and Services Environment, in excess of the scope and /or duration of the Cloud Services stated in the Customer Agreement. Upon the end of the Subscription Term, Your right to access and use the Cloud Services will terminate.

2.3 To enable Kodak to provide You and Your Users with the Cloud Services, You grant Kodak the right to use, process and transmit, in accordance with the Customer Agreement, Your Content and Your Applications for the duration of the Subscription Term plus any additional post-termination period during which Kodak provides You with access to retrieve an export file of Your Content and Your Applications. If Your Applications include third party programs, You acknowledge that Kodak may allow providers of those third party programs to access the Services Environment, including Your Content and Your Applications, as required for the interoperation of such third party programs with the Cloud Services. Kodak will not be responsible for any use, disclosure, modification or deletion of Your Content or Your Applications resulting from any such access by third party program providers or for the interoperability of such third party programs with the Cloud Services.

2.4 The Cloud Services may contain or require the use of Separately Licensed Third Party Technology. You are responsible for complying with the Separate Terms specified by Kodak that govern your use of Separately Licensed Third Party Technology. Kodak may provide certain notices to You in the Service Description and Specifications, Program Documentation, readme or notice files in connection with such Separately Licensed Third Party Technology. The third party owner, author or provider of such Separately Licensed Third Party Technology retains all ownership and intellectual property rights in and to such Separately Licensed Third Party Technology.

2.5 As part of certain Prinergy Cloud Services offerings, Kodak may provide You with access to Third Party Content within the Services Environment. The type and scope of any Third Party Content is defined in the Service Description and Specifications applicable to Your order. The third party owner, author or provider of such Third Party Content retains all ownership and intellectual property rights in and to that content, and Your rights to use such Third Party Content are subject to, and governed by, the terms applicable to such content as specified by such third party owner, author or provider.

### **3.0 OWNERSHIP AND RESTRICTIONS**

3.1 You retain all ownership and intellectual property rights in and to Your Content and Your Applications. Kodak or its licensors retain all ownership and intellectual property rights to the Cloud Services, including Kodak Programs and Ancillary Programs, and derivative works thereof, and to anything developed or delivered by or on behalf of Kodak under the Customer Agreement.

3.2 You may not, or cause or permit others to:

- (a)** remove or modify any program markings or any notice of Kodak's or its licensors' proprietary rights;
- (b)** make the programs or materials resulting from the Cloud Services (excluding Your Content and Your Applications) available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific Cloud Services You have acquired);
- (c)** modify, make derivative works of, disassemble, decompile, or reverse engineer any part of the Cloud Services (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs), or access or use the Cloud Services in order to build or support, and/or assist a third party in building or supporting, products or cloud services competitive to Kodak;
- (d)** perform or disclose any benchmark or performance tests of the Cloud Services, including the Kodak Programs, without Kodak's prior written consent;
- (e)** perform or disclose any of the following security testing of the Services Environment or associated infrastructure without Kodak's prior written consent: network discovery, port and service identification, vulnerability scanning, password cracking, remote access testing, or penetration testing; and
- (f)** license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the Cloud Services, Kodak Programs, Ancillary Programs, Services Environments or materials available, to any third party, other than as expressly permitted under the terms of the Customer Agreement.

3.3 The rights granted to You under these Terms of Use are also conditioned on the following:

- (a)** except as expressly provided in the Customer Agreement including these Terms of Use, no part of the Cloud Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording, or other means; and
- (b)** You make every reasonable effort to prevent unauthorized third parties from accessing the Cloud Services.

#### **4.0 SERVICE DESCRIPTION AND SPECIFICATIONS**

4.1 The Cloud Services are subject to and governed by Service Description and Specifications. Service Description and Specifications may define provisioning and management processes applicable to the Cloud Services (such as capacity planning), types and quantities of system resources (such as storage allotments), functional and technical aspects of the Kodak Programs, as well as any Cloud Services deliverables. You acknowledge that use of the Cloud Services in a manner not consistent with the Service Description and Specifications may adversely affect Cloud Services performance and/or may result in additional fees. If the Cloud Services permit You to exceed the ordered quantity (e.g., soft limits on counts for PDFs, Users, sessions, storage, etc.), then You are responsible for promptly purchasing additional quantity to account for Your excess usage. For any month that You do not promptly purchase such additional quantity, Kodak may require You to pay, in addition to the fees for the additional quantity, an excess usage fee for those Cloud Services equivalent to 10% of the total fees for the month in which such excess usage occurred. In the event that usage is exceeded for a period of 2 consecutive months, Kodak may, without notice to You, implement the next higher quantity tier.

4.2 Kodak may make changes or updates to the Cloud Services (such as infrastructure, security, technical configurations, application features, etc.) during the Subscription Term, including to reflect changes in technology, industry practices, patterns of system use, and availability of Third Party Content. The Service Description and Specifications are subject to change at Kodak's discretion; however, Kodak changes to the Service Description and Specifications will not result in a material reduction in the level of performance or availability of the applicable Cloud Services provided to You for the duration of the Subscription Term.

4.3 Your Site location will determine the Data Center Region in which Your Services Environment will reside. As described in the Service Description and Specifications and to the extent applicable to the Prinergy Cloud Services that You have ordered, Kodak will provide production, test, and backup environments in the designated Data Center Region. Kodak and its affiliates may perform certain aspects of Prinergy Cloud Services, such as service administration and support, as well as other Cloud Services (including Professional Cloud Services and disaster recovery), from locations and/or through use of subcontractors worldwide.

## **5.0 USE OF THE SERVICES**

5.1 You are responsible for identifying and authenticating all Users, for approving access by such Users to the Cloud Services, for controlling against unauthorized access by Users, and for maintaining the confidentiality of usernames, passwords and account information. By federating or otherwise associating Your and Your Users' usernames, passwords and accounts with Kodak, You accept responsibility for the timely and proper termination of user records in Your local (intranet) identity infrastructure or on Your local computers. Kodak is not responsible for any harm caused by Your Users, including individuals who were not authorized to have access to the Cloud Services but who were able to gain access because usernames, passwords or accounts were not terminated on a timely basis in Your local identity management infrastructure or Your local computers. You are responsible for all activities that occur under Your and Your Users' usernames, passwords or accounts or as a result of Your or Your Users' access to the Cloud Services and agree to notify Kodak immediately of any unauthorized use.

5.2 You agree not to use or permit use of the Cloud Services, including by uploading, emailing, posting, publishing or otherwise transmitting any material, including Your Content, Your Applications and Third Party Content, for any purpose that may **(a)** menace or harass any person or cause damage or injury to any person or property, **(b)** involve the publication of any material that is false, defamatory, harassing or obscene, **(c)** violate privacy rights or promote bigotry, racism, hatred or harm, **(d)** constitute unsolicited bulk e-mail, "junk mail", "spam" or chain letters; **(e)** constitute an infringement of intellectual property or other proprietary rights, or **(f)** otherwise violate applicable laws, ordinances or regulations. In addition to any other rights afforded to Kodak under these Terms of Use, Kodak reserves the right, but has no obligation, to take remedial action if any material violates the foregoing restrictions, including the removal or disablement of access to such material. Kodak shall have no liability to You in the event that Kodak takes such action. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of Your Content and Your Applications. You agree to defend and indemnify Kodak against any claim arising out of a violation of Your obligations under this section.

5.3 You are required to accept all patches, bug fixes, updates, maintenance and service packs (collectively, "Patches") necessary for the proper function and security of the Cloud Services, including for the Kodak Programs, as such Patches are generally released by Kodak as may be described in the Service Description and Specifications. Except for emergency or security related maintenance activities, Kodak will coordinate with You the scheduling of application of Patches, where possible, based on Kodak's next available standard maintenance window.

## **6.0 SUSPENSION; END OF SERVICES**

6.1 Kodak may temporarily suspend Your password, account, and access to or use of the Cloud Services if You or Your Users violate any provision within the Customer Agreement, or if in Kodak's reasonable judgment, the Cloud Services or any component thereof are about to suffer a significant threat to security or functionality. Kodak will provide advance notice to You of any such suspension in Kodak's reasonable discretion based on the nature of the circumstances giving rise to the suspension. Kodak will use reasonable efforts to re-establish the affected Cloud Services promptly after Kodak determines, in its reasonable discretion, that the situation giving rise to the suspension has been cured; however, during any suspension period, Kodak will make available to You Your Content and Your Applications as existing in the Services Environment on the date of suspension. Kodak may terminate the Cloud Services if any of the foregoing causes of suspension is not cured within 30 days after Kodak's initial notice thereof. Any suspension or termination by Kodak under this paragraph shall not excuse You from Your obligation to make payment(s) under the Customer Agreement.

6.2 If either party breaches a material term of the Customer Agreement and fails to correct the breach within 30 days of written specification of the breach, then the breaching party is in default and the non-breaching party may terminate the Cloud Services order under which the breach occurred. If Kodak terminates the Cloud Services order as specified in the preceding sentence, You must pay within 30 days all amounts that have accrued prior to such termination, as well as all sums remaining unpaid for the Cloud Services ordered under the Customer Agreement plus related taxes and expenses. Except for nonpayment of fees, the non-breaching party may agree in its sole discretion to extend the 30 day period for so long as the breaching party continues reasonable efforts to cure the breach. You agree that if You are in default under the Customer Agreement, You may not use the Cloud Services ordered.

## **7.0 PRIVACY**

7.1 As described in our Privacy statement for Cloud Services (<https://www.kodak.com/en/company/page/privacy>), Kodak acts as a data processor and a service provider with respect to Client Data.

7.2 Kodak uses Client Data to provide the Cloud Services and as otherwise instructed by You. Kodak may disclose Client Data to Kodak affiliates and data processors. These entities are all contractually bound to limit use of the Client Data as needed to perform the Cloud Services. Kodak may disclose Client Data in connection with a merger or acquisition. Kodak will also disclose Client Data when required to do so by law.

7.3 Kodak's information security program contains administrative, technical and physical controls that are designed to safeguard Client Data. For example, Kodak uses industry-standard encryption technology to secure Client Data when it is being collected and transmitted over the Internet as well as firewalls, site monitoring and intrusion detection software.

7.4 For Customers based outside of the United States, Client Data may be transferred to Kodak and its affiliates and data processors in the United States and elsewhere in the world. Kodak will always protect the confidentiality and security of the Client Data, regardless of where it is processed.

7.5 If You have questions about Kodak's commitment to confidentiality and security of Client Data, please contact Kodak at [privacy@kodak.com](mailto:privacy@kodak.com).

## **8.0 WARRANTIES, DISCLAIMERS AND EXCLUSIVE REMEDIES**

8.1 Kodak warrants that it will perform (a) Prinergy Cloud Services in all material respects as described in the Service Description and Specifications, and (b) Professional Cloud Services in a professional manner in accordance with the Service Description and Specifications. If the Cloud Services provided to You were not performed as warranted, You must promptly provide written notice to Kodak that describes the deficiency in the Cloud Services.

8.2 KODAK DOES NOT GUARANTEE THAT (A) THE CLOUD SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT KODAK WILL CORRECT ALL CLOUD SERVICES ERRORS, (B) THE CLOUD SERVICES WILL OPERATE IN COMBINATION WITH YOUR CONTENT OR YOUR APPLICATIONS, OR WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY KODAK, AND (C) THE CLOUD SERVICES WILL MEET YOUR REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS. YOU ACKNOWLEDGE THAT KODAK DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE CLOUD SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. KODAK IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. KODAK IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE CLOUD SERVICES THAT ARISE FROM YOUR CONTENT, YOUR APPLICATIONS OR THIRD PARTY CONTENT. KODAK DOES NOT MAKE ANY REPRESENTATION OR WARRANTY REGARDING THE RELIABILITY, ACCURACY, COMPLETENESS, CORRECTNESS, OR USEFULNESS OF THIRD PARTY CONTENT, AND DISCLAIMS ALL LIABILITIES ARISING FROM OR RELATED TO THIRD PARTY CONTENT.

8.3 FOR ANY BREACH OF THE CLOUD SERVICES WARRANTY, YOUR EXCLUSIVE REMEDY AND KODAK'S ENTIRE LIABILITY SHALL BE THE CORRECTION OF THE DEFICIENT CLOUD SERVICES THAT CAUSED THE BREACH OF WARRANTY, OR, IF KODAK CANNOT SUBSTANTIALLY CORRECT THE DEFICIENCY IN A COMMERCIALY REASONABLE MANNER, YOU MAY END THE DEFICIENT CLOUD SERVICES AND KODAK WILL REFUND TO YOU THE FEES FOR THE TERMINATED CLOUD SERVICES THAT YOU PRE-PAID TO KODAK FOR THE PERIOD FOLLOWING THE EFFECTIVE DATE OF TERMINATION.

8.4 TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **9.0 INDEMNIFICATION**

9.1 Subject to the terms of this Section 9 (Indemnification), if a third party makes a claim against either You or Kodak ("Recipient" which may refer to You or Kodak depending upon which party received the Material), that any information, design, specification, instruction, software, service, data, hardware, or material (collectively, "Material") furnished by either You or Kodak ("Provider" which may refer to You or Kodak depending on which party provided the Material) and used by the Recipient infringes the third party's intellectual property rights, the Provider, at the Provider's sole cost and expense, will defend the Recipient against the claim and indemnify the Recipient from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by the Provider, if the Recipient does the following:

- (a)** notifies the Provider promptly in writing, not later than 30 days after the Recipient receives notice of the claim (or sooner if required by applicable law);
- (b)** gives the Provider sole control of the defense and any settlement negotiations; and
- (c)** gives the Provider the information, authority and assistance the Provider needs to defend against or settle the claim.

9.2 If the Provider believes or it is determined that any of the Material may have violated a third party's intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the Provider may end the license for, and require return of, the applicable Material and refund any unused, prepaid fees the Recipient may have paid to the other party for such Material. If such return materially affects Kodak's ability to meet its obligations under the relevant order, then Kodak may, at its option and upon 30 days prior written notice, terminate the order.

9.3 The Provider will not indemnify the Recipient if the Recipient **(a)** alters the Material or uses it outside the scope of use identified in the Provider's user or program documentation or Service Description and Specifications, **(b)** uses a version of the Material which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was made available to the Recipient, or **(c)** continues to use the applicable Material after the end of the license to use that Material. The Provider will not indemnify the Recipient to the extent that an infringement claim is based upon any information, design, specification, instruction, software, service, data, hardware or material not furnished by the Provider. Kodak will not indemnify You for any portion of an infringement claim that is based upon the combination of any Material with any products or services not provided by Kodak. Kodak will not indemnify You to the extent that an infringement claim is based on Third Party Content or any Material from a third party portal or other external source that is accessible to You within or from the Cloud Services (e.g., a social media post from a third party blog or forum, a third party Web page accessed via a hyperlink, etc.). Kodak will not indemnify You for infringement caused by Your actions against any third party if the Cloud Services as delivered to You and used in accordance with the terms of the Customer Agreement would not otherwise infringe any third party intellectual property rights. Kodak will not indemnify You for any intellectual property infringement claim(s) known to You at the time Cloud Services rights are obtained.



9.4 The term "Material" defined above does not include Separately Licensed Third Party Technology. Solely with respect to Separately Licensed Third Party Technology that is part of or is required to use the Prinergy Cloud Services and that is used: **(a)** in unmodified form; **(b)** as part of or as required to use the Cloud Services; and **(c)** in accordance with the usage grant for the relevant Prinergy Cloud Services and all other terms and conditions of the Customer Agreement, Kodak will indemnify You for infringement claims for Separately Licensed Third Party Technology to the same extent as Kodak is required to provide infringement indemnification for Materials under the terms of the Customer Agreement.

9.5 This Section 9 provides the parties' exclusive remedy for any infringement claims or damages.

## **10.0 THIRD PARTY WEB SITES, CONTENT, AND PRODUCTS**

10.1 The Cloud Services may enable You to link to, transmit Your Content to, or otherwise access, other Web sites, content, products, services, and information of third parties. Kodak does not control and is not responsible for such Web sites or any such content, products, services and information accessible from or provided through the Cloud Services, and You bear all risks associated with access to and use of such Web sites and third party content, products, services and information.

10.2 Any Third Party Content made accessible by Kodak in or through the Cloud Services Environment is provided on an "as-is" and "as available" basis without any warranty of any kind. Third Party Content may be indecent, offensive, inaccurate, infringing or otherwise objectionable or unlawful, and You acknowledge that Kodak is not responsible for and under no obligation to control, monitor or correct Third Party Content; however, Kodak reserves the right to take remedial action if any such content violates applicable restrictions under Section 5.2 of these Terms of Use, including the removal of, or disablement of access to, such content.

10.3 You acknowledge that **(a)** the nature, type, quality and availability of Third Party Content may change at any time during the Subscription Term, and **(b)** features of the Cloud Services that interoperate with third parties such as Facebook™, YouTube™ and Twitter™, etc. (each, a "Third Party Service"), depend on the continuing availability of such third parties' respective application programming interfaces (APIs) for use with the Cloud Services. Kodak may update, change or modify the Cloud Services under these Terms of Use as a result of a change in, or unavailability of, such Third Party Content, Third Party Services or APIs. If any third party ceases to make its Third Party Content or APIs available on reasonable terms for the Services, as determined by Kodak in its sole discretion, Kodak may cease providing access to the affected Third Party Content or Third Party Services without any liability to you. Any changes to Third Party Content, Third Party Services or APIs, including their availability or unavailability, during the Subscription Term does not affect Your obligations under the Customer Agreement, and You will not be entitled to any refund, credit or other compensation due to any such changes.

10.4 Any Third Party Content that You store in Your Services Environment will count towards any storage or other allotments applicable to the Prinergy Cloud Services.

## **11.0 SERVICES TOOLS AND ANCILLARY PROGRAMS**

11.1 Kodak may use tools, scripts, software, and utilities (collectively, the "Tools") to monitor and administer the Cloud Services and to help resolve Your Kodak service requests. The Tools will not collect or store any of Your Content or Your Applications residing in the Services Environment, except as necessary to provide the Services or troubleshoot service requests or other problems in the Services. Information collected by the Tools (excluding Your Content and Your Applications) may also be used to assist in managing Kodak's product and service portfolio, to help Kodak address deficiencies in its product and service offerings, and for license and Services management.

11.2 As part of the Cloud Services, Kodak may provide You with on-line access to download certain Ancillary Programs. If Kodak does not specify Separate Terms for such Ancillary Programs, You shall have a non-transferable, non-exclusive, non-assignable, limited right to use such Ancillary Programs solely to facilitate Your access to, operation of, and/or use of the Services Environment, subject to the terms of the Customer Agreement. Your right to use such Ancillary Programs will terminate upon the earlier of Kodak's notice (which may be through posting on <http://partnerplace.kodak.com/> or such other URL designated by Kodak), the end of the Cloud Services associated with the Ancillary Programs, or the date on which the license to use the Ancillary Programs ends under the Separate Terms specified for such programs.

## **12.0 SERVICE ANALYSES**

Kodak may **(a)** compile statistical and other information related to the performance, operation and use of the Cloud Services, and **(b)** use data collected during operation of the Cloud Services and the Services Environment in aggregate form for security and operations management, to create statistical analyses, and for research and development purposes and to improve functionality of the Cloud Service and develop and/or market other products or services (clauses **a** and **b** are collectively referred to as "Service Analyses"). Kodak may make Service Analyses publicly available; however, Service Analyses will not incorporate Your Content or Confidential Information in a form that could serve to identify You or any individual, and Service Analyses do not constitute Personal Data. Kodak retains all intellectual property rights in Service Analyses.

## **13.0 OTHER**

13.1 Kodak Programs and Cloud Services are not designed for or specifically intended for use in nuclear facilities or other hazardous applications. You agree that it is Your responsibility to ensure safe use of Kodak Programs and Cloud Services in such applications.

13.2 You shall obtain at Your sole expense any rights and consents from third parties necessary for Your Content, Your Applications, and Third Party Content, as well as other vendor's products provided by You that You use with the Cloud Services, including such rights and consents as necessary for Kodak to perform the Cloud Services under the Customer Agreement.

13.3 You agree to provide Kodak with all information, access and full good faith cooperation reasonably necessary to enable Kodak to provide the Cloud Services and You will perform the actions identified in the Customer Agreement as Your responsibilities.

13.4 You remain solely responsible for Your regulatory compliance in connection with Your use of the Cloud Services. You are responsible for making Kodak aware of any technical requirements that result from Your regulatory obligations prior to entering into the Customer Agreement. Kodak will cooperate with your efforts to determine whether use of the standard Kodak Cloud Services offering is consistent with those requirements. Additional fees may apply to any additional work performed by Kodak or changes to the Cloud Services.

13.5 You are responsible for any security vulnerabilities, and the consequences of such vulnerabilities, arising from Your Content and Your Applications, including any viruses, Trojan horses, worms or other programming routines contained in Your Content or Your Applications that could limit or harm the functionality of a computer or that could damage, intercept or expropriate data.

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