PSLT – Magento Commerce Pro: Managed Services (2020v1)

1. **Additional Definitions**

   1.1 "**Account**" means any Adobe account(s) for the Managed Services opened by Customer pursuant to a Sales Order.

   1.2 "**Adobe Open Source**" means the eCommerce platform software developed and owned in whole or in part by Adobe and licensed under an Open Source Initiative (OSI) approved license, including but not limited to software available at: https://magento.com/tech-resources/download (or its successor locations), and as may be updated by Adobe from time to time.

   1.3 "**Copyleft Software**" means software, content, materials, and/or works of authorship licensed under terms that (a) grant, impose, or purport to impose a requirement or condition on the software or other technology combined or otherwise used or distributed therewith; (b) require or purport to require that software or other technology combined or otherwise used or distributed therewith be made available in source code form; (c) requires or purports to require that software or technology combined or otherwise used or distributed therewith be licensed for the purpose of making modifications or derivative works; (d) requires or purports to require that software or any other technology combined or otherwise used or distributed therewith be redistributable at no charge; or (e) may grant or purport to grant to third parties any rights or immunities under Adobe's proprietary rights in the Adobe Technology or any portion thereof.

   1.4 "**Customer Customizations**" means the customizations made to the Managed Services at Customer's direction as permitted by the applicable Documentation. Customer Customizations do not constitute Indemnified Technology. Customer owns (or, where applicable, must ensure it has a valid license to) Customer Customizations, subject to Adobe's underlying intellectual property in the Adobe Technology. Customer acknowledges and agrees that Adobe's access to Customer Customizations does not preclude Adobe from independently developing (without use of Customer Customizations) or acquiring similar technology without obligation to Customer.

   1.5 "**Development Consultant**" means a third-party systems integrator that (A) Customer has authorized, under section 5 of the General Terms, to access, test and customize the Managed Services during the Pre-Production Phase, and (B) has a minimum of one individual on the development team who has a Magento Commerce Pro with AMS Certification and who will be significantly engaged and involved in the Managed Services development project.

   1.6 "**End User**" means any individual or entity of any kind that directly or indirectly through another user: visits, accesses, or uses the Customer Sites.

   1.7 "**Minimum Uptime Percentage**" means the minimum Uptime Percentage (as defined in the Service Level Agreement) identified in the Sales Order and Documentation for each Managed Service licensed by Customer. Generic Non-Production Instances have no guaranteed Minimum Uptime Percentage.

   1.8 "**Pre-Production Phase**" means the period of time before the Production Phase.

   1.9 "**Production Phase**" means the period of time when Users use the Managed Services (A) on Customer Sites; or (B) for its internal operations.

   1.10 "**Runbook**" means a document written by Customer that provides Adobe with a list of Customer Customizations and configurations Customer made to the Managed Services. Such list is intended to assist Adobe in running and supporting the Managed Services in the Production Phase.

   1.11 "**Store View**" means a view of a Customer Site with a unique theme, layout, design, language, localization, display currency, or display of products. Each Customer Site uses at least one Store View.

   1.12 "**Third-Party Content**" means content owned by a third party (or its licensors) that is not Customer Content or Adobe Technology and includes, without limitation, any content as may be made available on the Magento Marketplace or on Magento developer and community repositories and forums.

   1.13 "**Third-Party Services**" means any and all third-party services (including associated APIs and web service definition files) that may be made available to Customer or its End Users through the Managed Services.

2. **Additional License Grant and Restrictions**

   2.1 **License for Development Software.** Customer may install and use a reasonable number of copies of the On-premise Software versions of the licensed Managed Services in a development environment only, strictly for testing and quality assurance purposes, and not for production purposes. Customer (on behalf of itself and its Affiliates) hereby irrevocably waives and agrees to never assert any right in such Customer Customizations against Adobe and its Affiliates or its direct or indirect sublicensees.

   2.2 **Use of Store Views.** Customer shall notify Adobe promptly upon the launch of each Store View.

   2.3 **Restrictions**. Customer will not (and must ensure that its employees, contractors, and other third parties do not):

   (A) exploit the licenses granted herein for any purpose other than creating and maintaining the Customer Sites used for promoting, selling or providing the Customer's products and services to End Users;

   (B) access, use or develop the Products and Services in a way intended to avoid incurring fees or exceeding usage limits or quotas;

   (C) assert or authorize, assist, or encourage any third party to assert, any claim of infringement of intellectual property rights regarding the Products and Services;

   (D) use any Copyleft Software in connection with the Products and Services;

   (E) use, host, support, or assist in the use of Adobe Open Source in combination with the Products and Services;

   (F) host any third-party applications or agents such as hosting monitoring agents, content management systems, security hardware on the Managed Services, or use or permit the use of any tools in order to probe, scan or attempt to penetrate or benchmark the Managed Services with the exception of tools necessary to validate the performance or security of the Customer's Sites; or

   (G) develop any Customer Customizations to the Products and Services to interface or process cardholder data of any kind (for clarity, Customer will use payment gateway integrations where cardholder data is sent directly to the payment gateway and is not sent to the payment gateway via the Products and Services).

   2.4 **Use of Fonts.** Except as otherwise detailed in the Agreement, Adobe's proprietary or licensed fonts are embedded with the Products and Services only for use within the user interface of the Products and Services.

   2.5 **Permitted Use.** Adobe may access, use, copy, and store Customer Data, Customer Content, Customer Customizations, User interactions, and Managed Services system performance to test the Managed Services, and derive information which may be used to develop, build, modify, improve, support, and operate the Managed Services.

3. **Support Services.** Adobe will support the Products and Services available in the Managed Services from the release date of each applicable Major and Minor release for the time period as set forth in the Magento Software Lifecycle Policy at http://www.magento.com/legal/terms (or such successor URL), and as may be updated by Adobe from time to time. For purposes of support obligations, Adobe defines its Magento Software version scheme as Major.Minor.Patch releases (e.g., 2.1.7 is Magento Major Version 2, Minor Release 1, Patch Release 7).

4. **Service Level Agreement.** Adobe's Minimum Uptime Percentage obligations are detailed in the Documentation, the Master Service Level Agreement and the Service Level Exhibit for Magento Commerce Pro: Managed Services found here: http://www.adobe.com/legal/service-commitments.html (together the "**Service Level Agreement**").

5. **Security Measures.** If the General Terms have any existing security measures, such existing security measures are hereby removed and replaced with the following: Adobe has implemented reasonable information security practices regarding the protection of Customer Data, including administrative, technical and physical security measures consistent with the Magento Security, Privacy and Architecture Guide found at http://www.magento.com/legal/terms (or its successor location), as may be updated from time to time by Adobe, for the applicable On-demand Services or Managed Services.

6. **Pre-Production Phase**

   6.1 During the Pre-Production Phase, Customer will:

   (A) create and provide a complete and accurate Runbook to Adobe for review and obtain Adobe's written approval of such Runbook;

   (B) create and test Customer Customizations for the purpose of evaluating potential configurations of the Managed Services;

   (C) conduct additional quality and security testing of those Customer Customizations and configurations by performing bug elimination, simulations, and integration with other Customer systems.

7. **Production Phase**

7.1 If Customer desires to make any Customer Customizations to the Managed Services once the Managed Services are in the Production Phase:

(A) Customer will request that Adobe launch a cloned staging server, implement such Customer Customizations, and request that such Customer Customizations be reviewed and approved by Adobe;

(B) the Managed Services will then revert to the Pre-Production Phase in connection with such Customer Customizations on such cloned server; and

(C) Adobe will continue to simultaneously run the Managed Services in the Production Phase while such Customer Customizations are in the Pre-Production Phase.

8. **Third-Party Content, Third-Party Services, and Customer Customizations.**

8.1 Customer may, at its option, decide to utilize Third-Party Content or Third-Party Services, which are governed by separate agreement(s) between such third-parties and Customer, and not this Agreement. Adobe will not be responsible for any defect or failure in the Managed Services caused by Third-Party Content, Third-Party Services, or Customer Customizations. Customer is solely responsible for all installation, deployment, and testing (security and quality) of Third-Party Content, Third-Party Services, and Customer Customizations. This includes any possible negative effect on the Managed Services arising from the use or inability to use any Customer Customization. Customer acknowledges that Customer Customizations may affect the Customer Sites performance and may result in downtime and/or require increased server or surge capacity which may incur additional fees. It is the sole responsibility of the Customer to address any performance, availability, or functional issues caused by any Customer Customization.

8.2 Adobe will not be responsible for any defect or failure in the Managed Services caused by Customer Customizations or by Customer's failure to meet the obligations in sections 5 and 6 (Pre-Production Phase and Production Phase). Customer is solely responsible for all testing (security and quality) of Customer Customizations.

9. **Development Consultant.** Any Development Consultant(s) appointed by Customer under this PSLT works expressly and exclusively at Customer's direction, and Customer is responsible for any acts or omissions of such Development Consultant(s). Adobe may deny access to any Development Consultant it deems is adversely impacting the Managed Services or other Managed Services customers. References to Customer in this PSLT refer to both Customer and its Development Consultant(s).

10. **Runbook.** Customer's Runbook must, at a minimum, include the subject matters listed below in the format provided by Adobe. Customer must promptly update the Runbook each time it creates new Customer Customizations that are accepted by Adobe for use in the Production Phase. Adobe may, in its sole discretion, from time to time during the License Term, change or modify the subject matters required to be included in the Runbook, and Customer will promptly update its Runbook to include such new subject matters. Customer will immediately update the Runbook upon any Adobe request.

10.1 **Runbook Table:**

Runbook Subject Matter	Description
System Configuration	Adobe may provide Customer with information regarding the configuration of the Managed Services, and Customer must verify whether this information is correct.
Customizations	A list of all Customer Customizations.
	A list and description of the functionality of all third-party data, products, services, platforms, and software (including of any bugs) installed or used by Customer in connection with the Managed Services.
	Any Customer-specific backup schedule for Customer's implementation of the Managed Services.
System Monitoring	A list of any connections between the Managed Services and any other systems on which the Managed Services is dependent.
	A list of parameters for such connections that should be monitored by Adobe to ensure functioning of the Managed Services.
	A list of parameters associated with any Customer Customizations that should be monitored by Adobe to ensure functioning of the Managed Services.
User Acceptance Testing Documentation	Describe the load testing scenarios conducted by Customer.
	Describe the user acceptance testing scenarios conducted by Customer.
	Describe the positive and negative outcomes of such testing.

Runbook Subject Matter	Description
Post-Production Changes	Describe the changes to the Managed Services' Production Phase, which were requested by Customer and approved and implemented by Adobe.
Events and Responses	List all known weaknesses in Customer Customizations to the Managed Services. Recommend actions to be taken by Adobe when providing support for the Managed Services. Include the following information, at a minimum: • all log files created by Customer; • all information source or recipient repositories; • all databases and other information storage occurring in the Managed Services; • any encryption models implemented in the Managed Services; • all communications with any upstream data sources, including forms; • all information required for long-term administration of the Customer Customizations; • the most common failure modes and recommendations for recovery from such failures; and • known business cycles such as holiday/seasonal spikes, planned campaigns, and other major events that will increase traffic and require proactive monitoring
Contacts and Contracts	Specify a Customer contact who Adobe should notify if the system goes down. Specify a Customer resource who has technical knowledge of the Managed Services and who can answer questions from Adobe. Specify any links between Customer's IT gate keeper for the Managed Services and other Customer systems (*e.g.*, LDAP, data repositories, etc.). Specify the Customer relationship manager for Development Consultant. Specify the Development Consultant contact who Adobe can contact in a support emergency. Specify the Development Consultant contact for management escalation. Specify the Development Consultant contact with whom Adobe will work to test upgrades to the Managed Services. Describe the agreement between Customer and Development Consultant. Include details on Development Consultant's response time requirements and other special instructions from Customer regarding such response times.

11. Long-Term Storage and Encryption

11.1   Adobe stores all long-term Customer Content, Customer Data and related operational data on mechanisms external to the virtual machines supporting Customer's Managed Services deployment.

11.2   Adobe encrypts all Customer Content, Customer Data, and related operational data stored outside the virtual machine at a standard of no less than AES-256.

12. Backup

12.1   Adobe backs-up long-term Customer Content, Customer Data, and related operational data such that Adobe can make a rapid recovery of the Managed Services in the event of a loss of the primary data within a system.

12.2   Adobe encrypts all backups at the same standard or better as set forth above for long-term storage. All backed-up Customer Data, Customer Content, and related operational data will, after encryption, be distributed across multiple data centers within a given cloud region to allow for recovery within these data centers in the event of the loss of function of the primary data center.

12.3   All backups will be taken at a frequency specified by Customer in Customer's Runbook, or daily, if no specification is made.

12.4   Adobe will retain all backups for a period specified in Customer's Runbook, or for 1 week if no specification is made. Adobe may delete and overwrite all backup files from media seven days after the end of the retention period unless Adobe is otherwise requested to retain these files, in writing, by Customer or law enforcement.

12.5   Customer Data, Customer Content, and Customer Customization source code stored within the Managed Services will be available to Customer until the expiration or termination of the License Term in the same format then available within the Managed Services. Customer acknowledges and agrees that the Managed Services should not be Customer's only repository for Customer Data, Customer Content, and Customer Customization source code.

12.6   Adobe Experience Targeting – Data Retention. To the extent that Customer has licensed Managed Services that include bundled Adobe Experience Targeting, Customer Data collected by Adobe Experience Targeting may be permanently deleted from Adobe's servers (A) 90 days after collection for visitor profile data, and (B) 12 months after collection for Customer Site activity data. Customer Data and Customer Content associated with Adobe Experience Targeting are stored outside of the Managed Services, in the Adobe Experience Targeting On-demand Service environment.

13. **Analytics.**

13.1   Customer grants Adobe a non-exclusive, worldwide, irrevocable, perpetual, royalty-free right and license to use all Customer Data that Adobe may obtain through accessing the Customer Sites, providing and supporting the Products and Services, accessing data from third parties regarding Customer's use of Third-Party Services or Third-Party Content (including analytics data and any unique account identifiers), and accessing analytics data and any unique account identifiers provided to Adobe by Customer for the purposes of:

(A)   providing Support Services or other services to Customer;

(B)   improving the Products and Services;

(C)   performing analyses related to the Products and Services and Customer's use of the Products and Services; and

(D)   monitoring the performance and use of the Products and Services.

13.2   The foregoing license includes the right for Adobe to develop and publish or otherwise make available broadly applicable insights regarding aggregated data but only when the data has been aggregated or de-identified so that such insights cannot reasonably be used to identify Customer or End Users. Examples of Adobe's use of such aggregated data include, but are not limited to, statistics aggregated across all of Adobe's customers on metrics such as the size of data sets, the number of users, revenue, number of transactions, and growth rates, as well as to analyze trends and improve product functionality, and for marketing, research, and benchmarking purposes.

14. **Patches.** Customer is prohibited from applying patches to the Managed Services, unless expressly approved by Adobe in the Runbook as described in Section 10.1 above.

15. **Software Updates and Upgrades.** During the License Term, all Managed Services include the updates and upgrades that are released to the general Adobe customer base.

(A)   **Types of Upgrades.** From time to time during the License Term, Adobe may implement upgrades to the Managed Services. Those upgrades may include a Customer-specific upgrade, an upgrade necessary for the security of the Managed Services or to address issues causing Adobe not to meet the Minimum Uptime Percentage (each an "**Emergency Upgrade**"), a minor upgrade (i.e., a maintenance release or a new minor version change to the Managed Services for purposes including but not limited to, error correction), or a major upgrade (i.e., a new version of the Managed Services).

(B)   **Upgrade Events Sequence.** Adobe will make all reasonable efforts to first install all upgrades on a server in the Pre-Production Phase at a mutually agreed upon time described in section 15(C) (Upgrade Timing) below. Once Adobe performs such installation, Customer will work with Adobe to test the upgrade's implementation in a timely fashion and will notify their Adobe contacts, as listed in the Runbook, of the success or failure of such testing. In the event of successful test results, Adobe will install the upgrade on server(s) in the Production Phase on a schedule described in section 15(C) (Upgrade Timing) below. In the event of the failure of the upgrade, Adobe will take corrective action if the issue is with Adobe's software. If the issue is with Customer Customizations, Adobe will take reasonable steps to support Customer in Customer's efforts to make adjustment to the code underlying Customer Customizations. Upon successful resolution of any such issues, Adobe will install the upgrade on the Production Phase server(s) as described above. A Customer may elect to defer or decline any such upgrade (excluding Emergency Upgrades) as set forth in section 15(D) (Upgrade Deferrals) below.

(C)   **Upgrade Timing.** Emergency Upgrades will be implemented by Adobe as needed. All other upgrades will be implemented by Adobe throughout the License Term upon prior written notice to Customer as specified in the Runbook. Adobe will notify Customer, with as much lead time as possible, of the availability of such upgrades. After Adobe provides such notification, Adobe will work with Customer to determine a mutually

agreed upon time to provide a Pre-Production Phase system for Customer to start testing the upgrade. Unless Adobe agrees in writing to a longer test period, Customer must finish its testing within 5 business days after Adobe makes the upgraded Managed Services available. In the event that Customer notifies Adobe that the tests on the Pre-Production Phase system have passed, Adobe will work with Customer to determine a mutually agreed upon maintenance window or other time period to implement the upgrade.

(D) **Upgrade Deferrals.** A Customer may elect to defer or decline any upgrade (excluding Emergency Upgrades). If Customer defers or declines an upgrade that is required to maintain the Managed Services within at least 1 major upgrade of the then-current, generally commercially available version of the Magento Commerce Pro with AMS Managed Services (each a "**Support Upgrade**") for any reason (including but not limited to, unwillingness to accept the Support Upgrade or unwillingness to make Customer Customizations that enable the Managed Services to become compatible with a Support Upgrade), Customer agrees to pay Adobe an additional Extended Operations Uplift Fee calculated as an additional 50% increase to any fees incurred after the effective date of Customer's deferral or declining of the Support Upgrade ("**Extended Operations Uplift Fee**"). Notwithstanding the foregoing, Customer is not obligated to pay to Adobe any such Extended Operations Uplift Fees if Customer is willing to install the Support Upgrade, but an action by Adobe causes such Support Upgrade to fail to be backward compatible with the then-current version of the Managed Services; however, Customer will work with Adobe to install the applicable Support Upgrade within a reasonable period of time.

(E) **Emergency Upgrades.** Notwithstanding anything to the contrary herein, Customer must accept all Emergency Upgrades.

16. **Customer Responsibilities and Conduct.**

16.1   Customer is responsible for:

(A) configuring and using the Products and Services in a manner that will provide appropriate security and protection of its Account, including applying necessary security patches that are released by Adobe; and

(B) providing appropriate security for and protection of Customer Site, which may include use of encryption technology to protect Customer Content and Customer Data from unauthorized access.

16.2   Customer will maintain at all times the appropriate level of PCI certification as set forth in the PCI Data Security Standards and Payment application Data Security Standards issued by the PCI Security Standards Council, or any successor compliance certificates, including, without limitation, PCI DSS (PCI Data Security Standard) v. 2.0 as any such standards may be amended, updated, or revised. Customer will ensure that the Products and Services do not store, transmit, process or tangentially process any cardholder data of any kind, except that Customer may utilize a payment gateway as permitted in this PSLT and authorized in the Runbook.

16.3   Customer will not engage in activity in conjunction with the Products and Services that knowingly violates a third party's terms of service.

16.4   Customer understands that the performance of the Managed Services is dependent on whether Customer has licensed sufficient computer processing resources, as specified on the Sales Order, and that Customer may need to purchase additional resources such as increases to vCPU Days or Storage. Customer agrees and acknowledges that Adobe shall have no liability for any degradation in the functionality of the Managed Services that is attributable to insufficient computer processing resources being provisioned.

17. **Accounts.** Customer is solely responsible for configuring and using the Products and Services in a manner that will provide appropriate security and protection of its Account and for all activities of Customer, their Affiliates and third parties that occur under its Account, regardless of whether the activities are authorized by Customer or are undertaken by Customer, its employees or a third party (including without limitation contractors, agents, Affiliates and End Users). Account log-in credentials and private keys generated by the Products and Services are for Customer's internal use only and Customer may not sell, transfer, or sublicense them to any other entity or person, except that Customer may disclose its private key to its agents and subcontractors (including any of its Affiliates who are acting as an agent or subcontractor of Customer) performing work with respect to the Products and Services, Customer Content, or Customer Customizations on behalf of Customer.

18. **End Users**. As applicable, Customer will be the seller of record and will be responsible for independently establishing the selling price with respect to the merchandise sold or furnished through the Managed Services or any other means. Customer is responsible for ensuring that the offer, advertising, sale, shipment and delivery and/or use of all merchandise and services in all applicable countries complies with all applicable laws. Customer is responsible for providing customer

service (if any) to any individual or entity of any kind that directly or indirectly through another user: visits, accesses, or uses the Customer Sites(s).