Agreement for payment services for Adobe Commerce and Magento Open Source

Last updated January 23, 2024

1. **Company's Agreement with Adobe.** Company's access to and use of payment services for Adobe Commerce and Magento Open Source ("Payment Services") is governed by these terms and the Enterprise Licensing Terms previously agreed to by the company you are employed by or represent ("Company" or "Customer") and Adobe, or if the Company has not previously agreed to licensing terms then Company's access to and use of Payment Services is subject to the current General Terms available at https://www.adobe.com/legal/terms/enterprise-licensing/overview.html ("Agreement"). By clicking to accept, you confirm your acceptance of these terms on behalf yourself, the Company, and other employees of the Company and acknowledge and agree that you have the authority to act on behalf of and bind such entity(ies). Any capitalized terms not defined herein are defined in the General Terms.

2. **Additional Definitions**

   2.1 "**Account**" means any Adobe account(s) for the On-demand Services opened by Customer.

   2.2 "**Development Consultant**" means a third-party systems integrator that (a) Customer has authorized, under the General Terms, to access and test the On-demand Services, and (b) has a minimum of one individual on the development team who is an Adobe Certified Expert – Adobe Commerce Developer (or any successor certification developed by Adobe) and will be significantly engaged and involved in the On-demand Services development project.

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

   2.4 "**Magento Open Source**" means the ecommerce platform software developed and owned in whole or in part by Adobe (or its Affiliates) and licensed under an Open Source Initiative (OSI) approved license, including but not limited to software available at: https://business.adobe.com/products/magento/open-source.html (or its successor locations), and as may be updated by Adobe (or its Affiliates) from time to time.

   2.5 **"Payment Processor"** means an entity that provides one or more Third-Party Services performing payment processing services in conjunction with the On-demand Services.

   2.6 **"Payment Processor Terms"** means any terms of use required by the Payment Processor(s) for the use of Payment Processor's services, which terms are separately agreed upon between Customer and Payment Processor(s).

   2.7 **"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 On-demand Services.

3. **Payment Processors**

   3.1 Customer understands and agrees that Adobe may, in its reasonable discretion, change or remove existing Payment Processors or add Payment Processors from time to time in connection with Customer's continued usage of On-demand Services, for reasons that include, but are not limited to: (i) existing Payment Processor being unable to support a geographic region where Customer is requesting payment processing services, or (ii) existing Payment Processor declining to continue to provide payment processing services to Customer. Customer understands that it may be required to agree to new or different Payment Processor Terms with such new Payment Processor(s), provided that any material increase in the transaction fees due to Payment Processor will require Customer's agreement to a new Sales Order before Customer can continue using the On-demand Services.

   3.2 Customer acknowledges that Adobe is not a payment processor and that the On-demand Services is a service that provides access to third-party payment processing services. Customer acknowledges that Payment Processor is a separate processor to Customer and is not Adobe's sub-processor. Customer hereby directs Adobe to provide Customer Data to Payment Processor to facilitate Payment Processor's provision of services. As part of Adobe's provision of the On-demand services to Customer, Payment Processor will return certain data to Adobe in support of such transactions including, but not limited to, a unique identifier indicating the success of such payment processing or, in the event of a failure, a brief description for the failure.

   3.3 In addition to accepting this Agreement, Customer must accept the Payment Processor Terms, and furthermore, undergo an underwriting process required by the Payment Processor, which is subject to the sole approval by the Payment Processor. Customer understands that such underwriting may include, without limitation, review

of Customer by Payment Processor under Payment Processor's due diligence programs, including, for example, Anti-Money Laundering and Know Your Customer. Should Customer fail to be approved by, or is rejected by, the Payment Processor, either Party may terminate the license for such On-demand Services and this Agreement, and such termination right shall be Customer's sole and exclusive remedy for Customer's failure to achieve underwriting approval by the Payment Processor.

3.4 Notwithstanding anything to the contrary in the Agreement, Customer's access to and use of On-demand Services is subject to Customer's acceptance of and compliance with Payment Processor Terms.

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

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

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

(C) develop any customizations or modifications in a way intended to circumvent the On-demand Services.

5. **Development Consultant.** Any Development Consultant(s) appointed by Customer under these terms 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 On-demand Services or other Adobe customers. Customer understands and acknowledges that: (A) Customer's appointment of a Development Consultant is solely at Customer's discretion, regardless of whether such Development Consultant was recommended by Adobe, designated by Adobe as a "certified partner" or otherwise; (B) that Adobe is not a party to any agreement between Customer and Development Consultant; and (C) Adobe is not responsible for any acts or omissions of the Development Consultant. Adobe is also not responsible for any disclosure, modification or deletion of Customer Data resulting from access by any non-Adobe Products and Services or its provider.

6. **Customer Responsibilities and Conduct.**

6.1 Customer is solely responsible for verifying that the identity of End Users corresponds to the End User's selected payment method. Adobe is not responsible for any unauthorized transactions that are later subject to reversal or chargeback.

6.2 Customer is solely responsible for configuring and using the On-demand 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 On-demand 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 On-demand Services on behalf of Customer.

6.3 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), as any such standards may be amended, updated, or revised.

6.4 Customer will not engage in activity in conjunction with the On-demand Services that knowingly violates any third-party terms, including but not limited to, Payment Processor Terms.

7. **Payment to Payment Processor.** Payment Processor shall process and settle funds due to Customer with the bank account designated by Customer. All settlements are issued after deducting any service fees as indicated in the Payment Processor Terms.

8. **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 Customer Site 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 End User. As between Customer and Adobe, Customer is solely responsible for resolving any disputes between Customer and any End User.