PSLT - Magento Commerce Cloud Pro: Managed Services (2019v1)

1. **Pre-Production Phase**

   1.1 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) submit Customer Customization source code to Adobe for storage in, and processing through, the Cloud Manager Framework;

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

2. **Production Phase**

   2.1 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.

3. **Customer Customizations**

   3.1 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 1 and 2 (Pre-Production Phase and Production Phase). Customer acknowledges and agrees that any testing of Customer Customization source code via the Cloud Manager Framework represents only a subset of the overall testing that needs to be completed by Customer. Customer is solely responsible for all testing (security and quality) of Customer Customizations.

4. **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 PLST refer to both Customer and its Development Consultant(s).

5. **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.

   5.1 **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 software (including of any bugs) installed by

Runbook Subject Matter	Description
	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.
Post Production Changes	Describe the changes to the Managed Services' during the 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 data bases and other info 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; and - the most common failure modes and recommendations for recovery from such failures.
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.

6. **Long-Term Storage and Encryption**
   6.1   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.
   6.2   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.

7. **Backup**

    7.1   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.

    7.2   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.

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

    7.4   Adobe will retain all backups for a period specified in Customer's Runbook, or for one 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.

    7.5   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.

8. **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.

9. **Permitted Use.** Adobe may access, use, copy and store Customer Data, Customer Content, Customer Customizations, User interactions, and Managed Services system performance to develop, modify, improve, support, test, and operate Magento Commerce Cloud Pro and the Managed Services.

10. **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.

11. **Patches.** Customer is prohibited from applying patches to the Managed Services, unless expressly approved by Adobe in the Runbook.

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

13. **Support Services.** All priority issues and issues related to the performance of the Managed Services should be submitted pursuant to the Support Services Terms and Conditions described at: https://helpx.adobe.com/support/programs/support-policies-terms-conditions.html (each a "Service Request"). If a Service Request relates to a problem in the usage of the Managed Services, Customer will provide Adobe with sufficient access and detail to permit Adobe to understand and reproduce the problem. If it is mutually determined by Customer and Adobe that the problem represents an error in the Managed Services that causes it to not operate in substantial conformity with applicable Documentation, Adobe will process the Service Request as detailed in the Support Services: Terms and Conditions. In addition, Adobe may, at its sole discretion and from time to time, implement fix releases.

14. **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 emergency 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 14(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 14(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 14(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 Cloud Pro 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. 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.

15. **Conduct.** Customer is responsible for (a) configuring and using the Managed Services in a manner that will provide appropriate security and protection of its Account; 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. Further, 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 ay 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 it is permitted to utilize a payment gateway as authorized in the Runbook.

16. **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 use: visits, accesses, or uses the Customer Sites(s).

17. **Fee Adjustments.**

17.1 Customer acknowledges and agrees that the fees specified in the Sales Order are based on the GMV threshold and AOV threshold provided by Customer, are set forth on the Sales Order, and that the fees may be subject to adjustments into higher fee tiers if the actual GMV is higher than the GMV threshold. If Customer's actual GMV for any given Contract Year is higher than the GMV threshold, the fees for the subsequent full Contract Year will be adjusted accordingly with then-current pricing. No downward adjustments to lower fee tiers will be made under the Agreement, regardless of the actual GMV. Customer acknowledges and agrees that (a) Adobe has the right to access the relevant data stored on the Managed Services and Account to assess and calculate GMV and AOV based on Customer's use of the Products and Services across all Customer Sites; and (b) Customer shall not interfere in any way with Adobe's right, access, and/or assessment and calculation of such data.

<u>**MAGENTO COMMERCE CLOUD PRO SPECIFIC TERMS**</u>

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

   18.1   use, host, support, or assist in the use of Magento Open Source in combination with the Products and Services;

   18.2   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); or

   18.3   host third-party applications or agents (hosting monitoring agents, content management systems, or security software), except as documented and accepted by Adobe in the Runbook as a Customer Customization.

19. **Waiver.** 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.

<u>**MAGENTO ORDER MANAGEMENT SPECIFIC TERMS**</u>

20. **GMV.** For purposes of Magento Order Management, the definition of "GMV" shall additionally include Transactions occurring in Customer's physical retail stores or via any other sales channels (including, but not limited to: telephone orders and other eCommerce channels) and processed through the Managed Services.

21. **Data Interchanges.** Unless otherwise agreed between the Parties in writing, all applicable information transmitted by and between the Parties shall be communicated electronically using Adobe's standard API guides and encryption requirements. To the extent Adobe agrees to use other technologies for any such communications, the Parties will utilize middleware acceptable to both Parties, provided however, such middleware must conform to Adobe's standard API documentation. All costs incurred in the integration, testing, and transmission of such communications will be the responsibility of Customer.

<u>**MAGENTO BUSINESS INTELLIGENCE PRO SPECIFIC TERMS**</u>

22. For purposes of Magento Business Intelligence Pro, the definition of "GMV" shall include Transactions for any Customer Sites or any other eCommerce channels that occur during the Contract Year. For clarity, any Transactions loaded from previous years or from sales channels that are not Customer Sites or other eCommerce channels shall not contribute to GMV.

23. **Additional Definitions**

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

   23.2   "**Average Order Value**" or "**AOV**" means the quotient of (a) the GMV for any given Contract Year; and (b) the number of Transactions during the same Contract Year.

   23.3   "**Cloud Manager Framework**" means Adobe's continuous integration, development and testing framework. The Cloud Manager Framework may:

   (A)   store Customer Customization source code (Customer agrees that it will not upload any code other than Customer Customizations to the Magento Commerce Cloud Pro Managed Services to the Cloud Manager Framework repository);

   (B)   test the quality of Customer Customization source code;

   (C)   provide recommended or required updates or changes to Customer Customization source code;

   (D)   provide Customer with access to Adobe's identity management system (Customer agrees that it will notify Adobe regarding any desire to use an alternative identify management system);

   (E)   compile approved Customer Customizations; and

   (F)   allow authorized Users to make self-service increases to Managed Services system infrastructure.

   23.4   "**Contract Year**" means 12 months from the License Term Start Date or each subsequent 12 months thereafter.

   23.5   "**Customer Customizations**" means the customizations made to the Managed Services at Customer's direction as permitted by the applicable Product Description. 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.

23.6　　"**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 an Magento Commerce Cloud Pro Certification and will be significantly engaged and involved in the Managed Services development project.

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

23.8　　"**Gross Merchandise Value**" or "**GMV**" means the total value of all Transactions processed through a Customer Site during any given Contract Year, excluding (a) any shipping, handling and customs costs charged to End Users; (b) any taxes Customer collects from End Users as part of any Transaction; and (c) any financing charges and interest for installments charged to End Users.

23.9　　"**Magento 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.

23.10　"**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.

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

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

23.13　"**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.

23.14　"**Transaction**" means any order placed by an End User through the Products and Services, by whatever means, that is accepted and/or processed by the Products and Services, (a) even if such order is later subject to a refund, return, chargeback or any other reversal, voluntary or involuntary and (b) regardless of whether Customer receives any payment for such order.