



# Supplemental End User License Agreement

## IMPORTANT: READ CAREFULLY

Dear Customer,

**SUPPLEMENTAL LICENSE AND SERVICES AGREEMENT FOR CISCO SYSTEMS' MAGENTO MANAGED SERVICES ("MAGENTO SERVICES") AND MAGENTO SOFTWARE ("MAGENTO SOFTWARE").**

**IMPORTANT-READ CAREFULLY: THIS SUPPLEMENTAL LICENSE AND SERVICES AGREEMENT ("SLSA") CONTAINS ADDITIONAL LIMITATIONS RELATING TO THE MAGENTO SERVICES AND MAGENTO SOFTWARE PROVIDED TO CUSTOMER UNDER THE END USER LICENSE AGREEMENT ("EULA") BETWEEN CUSTOMER AND CISCO. CAPITALIZED TERMS USED IN THIS SLSA AND NOT OTHERWISE DEFINED HEREIN SHALL HAVE THE MEANINGS ASSIGNED IN THE EULA. TO THE EXTENT THERE IS A CONFLICT BETWEEN THIS SLSA AND THE EULA OR ANY OTHER TERMS AND CONDITIONS APPLICABLE TO THE MAGENTO SERVICES OR MAGENTO SOFTWARE, THE TERMS AND CONDITIONS IN THIS SLSA SHALL TAKE PRECEDENCE.**

**CUSTOMER'S RIGHT TO USE THE MAGENTO SERVICES IS LIMITED SOLELY TO THOSE SKU COMPONENTS OF THE MAGENTO SERVICES PURCHASED BY CUSTOMER PURSUANT TO A VALID PURCHASE ORDER. CUSTOMER MAY USE THE MAGENTO SERVICES ONLY DURING THE PERIOD FOR WHICH SERVICES WERE PURCHASED BY CUSTOMER UNDER THE APPLICABLE SKU PURSUANT TO A VALID PURCHASE ORDER. ALL OTHER USES ARE STRICTLY PROHIBITED.**

**BY INSTALLING, DOWNLOADING, ACCESSING OR OTHERWISE USING THE MAGENTO SERVICES AND MAGENTO SOFTWARE, CUSTOMER AGREES TO BE BOUND BY SUCH TERMS AND CONDITIONS. IF CUSTOMER DOES NOT AGREE TO BE BOUND BY SUCH TERMS AND CONDITIONS, CUSTOMER MAY NOT INSTALL, DOWNLOAD, OR OTHERWISE USE THE MAGENTO SERVICES OR MAGENTO SOFTWARE.**

### LICENSE; ADDITIONAL RESTRICTIONS

**License.** Conditioned upon compliance with the terms and conditions of the Agreement, Cisco grants to Customer a limited, nonexclusive, non-transferable, worldwide license to access and use the Magento Services and the Documentation to provide the Network Services its customers, subject to the production server and development server limitations set forth in the Purchase Order. The foregoing license does not transfer or convey to Customer or any third party any right, title or interest in or to Magento Services, the Magento Software or Documentation or any associated intellectual property rights, but only a limited right of use revocable in accordance with the terms of the Agreement.

**Restricted Use.** Customer is purchasing the rights to access and use the then-current version of the Magento Software; Customer's license specifically excludes any subsequent Major Releases of the Magento Software. No other updates, upgrades, or other Magento Software releases are licensed by Cisco to Customer hereunder. Major Release means a release of Magento Software that provides additional software functions. Cisco designates Major Releases as a change in the ones digit of the Magento Software version number [(x).x.x]. Cisco does not warrant Major Releases will be compatible with prior software releases.

Minor Release means an incremental release of Magento Software that provides maintenance fixes and additional Magento Software functions. Cisco designates Minor releases as a change in the tenths digit of the Magento Software version number [x.(x).x].

### CUSTOMER RESPONSIBILITIES

- (a) In performing the Magento Services, Cisco may instruct the Customer to perform certain tasks or checks relating to Customer's network. Customer will, at its expense, perform all such checks and tests. Customer will also provide Cisco, or its authorized representative, reasonable access, at no cost to Cisco, to Customer's networking equipment in connection with the Magento Services. Customer shall not be required to furnish specialized equipment or know-how. Customer will pay Cisco, at Cisco's then-current rates, plus any reasonable actual out-of-

pocket expenses, for any rework or additional work resulting from modification of the Magento Services requested by Customer (and accepted by Cisco) or any act or omission of Customer, including providing inaccurate information to Cisco. Cisco shall seek Customer's approval in advance of incurring such costs if it knows costs will be incurred as a result of

- (b) such act or omission of Customer.
- (c) Customer is responsible for obtaining all approvals required by any third parties in order for Cisco to perform any Magento Service under this Agreement. Cisco will not be responsible or otherwise liable for any failure to perform the Magento Services to the extent caused by Customer's failure to obtain such third party approvals or any third party otherwise prevents Cisco from performing the Magento Services.
- (d) Customer will not resell the Magento Software or Magento Services or create or offer derivative versions of the Magento Software or Magento Services, either directly or indirectly through a third party.
- (e) Customer will be responsible for its compliance with all privacy, data control or use laws and regulations relating to its use of the Magento Services, including without limitation any data contained in any reports provided by Cisco hereunder. Customer acknowledges the potential privacy and other issues associated with the collection and use of such data. Customer warrants and covenants that it will comply with all laws (including, without limitation, copyright laws, privacy laws and import and export laws) applicable to Customer or its use of the Magento Services. In addition, Customer is responsible for obtaining any permits or approvals relating to its use of the Magento Services, including without limitation any permits or approvals relating to transactions requiring its customer's credit card information or other personally identifiable information.
- (f) Customer will not use the Magento Services to send spam, viruses or malware.
- (g) Customer understands the Magento Services are hosted by Cisco via a network utilized by Customer and other Cisco customers; Customer will not intentionally or unintentionally access data not owned by Customer or otherwise related to Customer's use of the Magento Services, or log into, or attempt to log into, a server or account which Customer is not authorized to access.
- (h) Customer will not attempt to probe, scan or test the vulnerability of a system or breach security or authentication measures without proper authorization.
- (i) Customer will be responsible for handling all communication, technical support to and business relations with its customers, including without limitation responding to inquiries and technical questions.
- (j) Customer will be responsible for determining whether or not any reported defects or issues may be replicated and that they are isolated to the Magento Services or Magento Software. If a defect or other issue is reported to Cisco and the defect or issue is determined to be with the Customer supplied software or Customer environment or networks or third party equipment or networks contracted for by Customer, then Cisco may invoice Customer, at Cisco's then current rates, for the work performed by Cisco isolating the defect or issue.
- (k) Customer is responsible for any catastrophic security events that result from any unauthorized configuration of the Magento Service components by Customer's personnel.  
The failure of Customer to comply with Customer's responsibilities set forth above may be deemed a material breach of the EULA and this SLA. Cisco reserves the right to suspend or terminate access to the Magento Services upon notice of a violation of such responsibilities.

**Customer Warranties.** Customer represents, warrants and covenants that (i) it shall only use the Magento Services and Magento Software to provide Magento Services to its End Users only as permitted by any Capacity limitations set forth in the Purchase Order. If Customer wishes to utilize the Magento Software beyond the Capacity set forth in the Purchase Order, Customer shall be obligated to place a Purchase Order with Cisco to procure such additional required Capacity as soon as is reasonably practical.

**Content.** Customer is and shall be solely responsible for the creation, renewal, updating, deletion, editorial content, control and all other aspects of any files, software, scripts, multimedia images, graphics, audio, video, text, data or other objects, including any third party content or materials, originating or transmitted from any location owned or operated by Customer, and/or uploaded or routed to, passed through and/or stored on or within the Magento

Services, or otherwise provided to Cisco in any medium or transmitted or routed using the Magento Services (“Customer Content”). Customer owns all right, title, and interest in the Customer Content, or possesses or shall possess all legally valid rights in the Customer Content necessary for the uses of the Customer Content contemplated herein. Customer shall not transmit or route to Cisco or the Magento Services, or otherwise direct via the Magento Services, any Customer Content that (a) infringes any copyright, trade secret, or other intellectual property right, (b) contains libelous, defamatory, or obscene material under any applicable law, or (c) otherwise violates any laws or regulations relating to

content or content distribution. Customer shall be responsible for utilizing Magento Services in accordance with the Documentation. If Customer has actual knowledge that any Customer Content infringes the intellectual property or other rights of a third party or violates any applicable laws or regulations (including, without limitation, laws and regulations relating to indecency or obscenity), Customer shall remove such Customer Content from Customer’s origin

server. Customer shall be solely responsible for maintaining the availability of its networks, web site(s) and any other

medium for the delivery of online video services, and all Customer Content, IP addresses, domain names, hyperlinks, databases, applications and other resources as necessary for Customer to operate and maintain its services to meet Customer’s business purposes and objectives. During the Term, Customer grants to Cisco a limited, non-exclusive license to use the Customer Content solely for all reasonable and necessary purposes contemplated herein and for Cisco to perform the Magento Services as contemplated hereunder.

**Indemnities by Customer.** Customer shall defend, indemnify, and hold Cisco harmless from and against any suit, proceeding, assertion, damages, cost, liability, and expenses (including court costs and reasonable attorneys’ fees) incurred as a result of claims by any third party against Cisco and its Affiliates, licensors, suppliers, subcontractors, officers, directors, employees and agents arising from or connected with any Customer Content and any other materials provided by Customer to Cisco, Customer’s services (including without limitation any activities or aspects thereof or commerce conducted thereon), Customer’s misuse of the Magento Services or Magento Software, unauthorized modification of the Magento Services or Magento Software, or unauthorized combination of the Magento Services or Magento Software with any hardware, software, products, data or other materials not specified or provided by Cisco.

Additionally, in the case where at no material fault of Cisco, the Magento Services or Magento Software, a third party software component, including but not limited to, WMDRM Server or Windows Media Player (“WMP”) or Microsoft PlayReady creates a digital rights management (DRM) security breach due to a failure or hacking of such component, Cisco shall notify Customer as soon as is practical after receiving a confirmed notice from the provider of such components or discovering such a DRM security breach itself. If, after receiving such DRM breach notice, Customer continues to allow its content to be accessed with any software or services operated in conjunction with the Magento Services or Magento Software during the period where there is no fix for such DRM security breach, or Customer decides not to implement such fix (which may require restricting End Users to using certain versions of third party applications), then Customer acknowledges and agrees Cisco will not have any liability to Customer for any costs, damages or legal fees related to a DRM security breach. Customer shall defend, indemnify, and hold Cisco harmless from and against any suit, proceeding, assertion, damages, cost, liability, and expenses (including court costs and reasonable attorneys’ fees) incurred as a result of claims by any third party against Cisco and its Affiliates, licensors, suppliers, subcontractors, officers, directors, employees and agents arising from or connected with or related to such DRM security breach.

**Open-Source Software.** The Magento Software includes certain open-source software. Despite anything to the contrary in the EULA or this supplement, the open-source software is governed by the terms and conditions of the applicable open-source license. The open-source software, the applicable open-source licenses and other open-source notices may be identified in the Documentation, the Magento Software GUI or in a README file accompanying the Magento Software. Customer agrees to comply with all such licenses and other notices.

Neither this SLSA nor any rights or obligations under this SLSA shall be assigned by a party without the other’s prior written consent, which will not be unreasonably withheld or delayed. Any attempted assignment shall be void and of no effect. Notwithstanding the foregoing, Cisco may assign this SLSA and any right or obligation under it without Customer’s approval, to any affiliate of Cisco.

#### **ADDITIONAL SERVICES**

During the period Customer has purchased Magento Services, Cisco’s Software Application Support (SAS) service obligations are set forth at the following URL: [http://www.cisco.com/legal/Cisco\\_SAS-SASU.pdf](http://www.cisco.com/legal/Cisco_SAS-SASU.pdf). Customer is not eligible to receive Software Application Support Plus Upgrades (SASU) services, if any, included on such URL.

Professional Services relating to the Magento Services or Magento Software purchased by Customer pursuant to a Purchase Order will be set forth in a separate document to be mutually agreed by the parties.