



SILKROAD SAAS TERMS AND CONDITIONS AGREEMENT FOR INDIRECT PURCHASES

This Agreement sets forth the terms under which SilkRoad will provide Customer with access to and use of certain cloud based software-as-a-service offering(s) identified in the applicable Order Form (each a **"Hosted Service"** and collectively, the **"Hosted Service"**), subscriptions to which are being sold to Customer by SilkRoad's Channel Partner. Each "Hosted Service" product will be deemed to include updated versions of same which are made available to Customer as part of maintenance and support services.

1. Definitions.

1.1 "Administrator(s)" means the User(s) designated by Customer who are responsible for administering the Hosted Service and who are issued an Administrator login by SilkRoad.

1.2 "Affiliates" means any entity that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a party to this Agreement, by way of majority voting equity ownership.

1.3 "Agreement" means these terms and conditions, the Schedules attached hereto.

1.4 "Channel Partner" means the third party identified on the Customer Order Form and SilkRoad Order Form that is authorized to resell subscriptions to the Hosted Services.

1.5 "Customer" means the customer entity identified on a Customer Order Form and SilkRoad Order Form. **"Customer Order Form"** means an order form or similar written ordering documentation entered into by and between Customer and Channel Partner that references this Agreement and pursuant to which Customer purchases a subscription for the Hosted Services from the Channel Partner.

1.6 "Customer Data" means all electronic data or information submitted by Customer or its Affiliates, or Channel Partner, to the extent it is acting on behalf of Customer or its Affiliates, to and stored by the Hosted Service.

1.7 "Electronic Communications" means any transfer of signs, signals, text, images, sounds, data or intelligence of any nature transmitted in whole or part electronically received and/or transmitted through the Hosted Service.

1.8 "Documentation" means the reference, administrative, and user manuals which are published by SilkRoad and provided by SilkRoad to Customer with the Hosted Service, which may be updated from time to time, but excluding any sales or marketing materials.

1.9 "Initial Term" means the initial subscription term specified in the applicable Customer Order Form, excluding any renewals terms.

1.10 "SilkRoad Order Form" means an order form

executed between SilkRoad and Channel Partner and accepted by SilkRoad for the initial purchase, add-on purchase or renewal of the Hosted Service and professional services, if any, to be provided by SilkRoad subject to the terms of this Agreement. The SilkRoad Order Form shall identify Channel Partner and Customer, the Hosted Services being purchased, fees payable by Channel Partner to SilkRoad in connection therewith, and such other information as may be necessary for SilkRoad to provide the Hosted Services to Customer.

1.11 "SilkRoad" means SilkRoad Technology, Inc., a Delaware corporation, or one of its Affiliates as identified on the Customer Order Form.

1.12 "Term" means the Initial Term specified in the applicable Customer Order Form and any renewal terms.

1.13 "Third Party Applications" means online, Web-based applications or services and offline software products that are provided by third parties, and interoperate with the Hosted Service.

1.14 "Users" means individuals who are authorized by Customer to use the Hosted Service, for whom subscriptions to a Hosted Service have been purchased on a Customer Order Form, and who have been supplied user identifications and passwords by Customer.

2. General Terms of Access to the Hosted Service

2.1 License. Subject to the terms of this Agreement and payment of the applicable fees, SilkRoad grants to Customer during the Term a non-exclusive, non-transferable, license to permit Users to use the Hosted Service solely for Customer's own internal business purposes, and in accordance with the terms and conditions of this Agreement and any limitations or parameters set forth in the Customer Order Form.

2.2 Customer Must Have Internet Access. DSL, cable or another high speed Internet connection is required for proper transmission of the Hosted Service. Customer is responsible for procuring and maintaining the network connections and all software and equipment that may be necessary to connect the Customer network to the Hosted Service, including, but not limited to, "browser" software that supports protocols utilized by the Hosted Service. SilkRoad assumes no responsibility for the reliability or performance of any computer networks, connections, or systems not owned or operated by SilkRoad.

2.3 Users: Passwords, Access, and Notification. Customer, through its Administrator, shall authorize access to and assign unique passwords and user names up to the number of Users purchased by Customer on the Customer Order Form. User

logins are for designated Users and cannot be shared or used by more than one User. Any User login may be reassigned to another currently employed User as needed during the current annual period (except in the case of the "SilkRoad Onboarding" Hosted Service, where a User login may not be reassigned). Regardless of the length of the Term, unused or vacant User logins expire at the end of each annual period. Customer shall use commercially reasonable efforts to prevent unauthorized access to or use of the Hosted Service and shall promptly notify SilkRoad or Channel Partner of any unauthorized access or use of the Hosted Service and any loss or theft or unauthorized use of any User's password or name and/or Hosted Service account numbers.

2.4 Use of the Hosted Service. Customer is responsible for all activities conducted by its Users, its Users' Electronic Communications and for its Users' compliance with this Agreement, including the content of all Customer Data.

2.5 Service Level. SilkRoad's commitment to the availability of the Hosted Service and related matters are specified on the "Service Level Agreement" attached as a Schedule hereto.

2.6 SilkRoad's Customer Support. As part of the Hosted Service, SilkRoad will provide Customer with Documentation and other online resources to assist Customer in its use of the Hosted Service. General Customer technical support services are described on the "Customer Support Guide" attached as a Schedule hereto.

2.7 Security. SilkRoad shall maintain commercially reasonable administrative, physical and technical safeguards for the protection, confidentiality and integrity of Customer Data. During the Term, SilkRoad shall undergo an audit and receive an annual SSAE 16 SOC 2 Report (or similar third party audit to an established industry) ("**Audit Report**"). No more than once per year, upon Customer's written request, SilkRoad shall provide a copy of its then current Audit Report, subject to any redactions or separate confidentiality agreements required by SilkRoad.

2.8 Additional Terms. Additional general terms and conditions are incorporated herein as attached on the "General Terms" Schedule hereto.

3. Confidentiality

3.1 Confidential Information. For purposes of this Agreement, "**Confidential Information**" shall include the terms of this Agreement, Customer Data, each party's proprietary technology, business processes and technical product information, designs, issues, all communication between the Customer and SilkRoad regarding the Hosted Service and any information that is clearly identified in writing at the time of disclosure as confidential. Notwithstanding the foregoing, Confidential Information shall not include information which: (1) is known publicly; (2) is generally known in the industry before disclosure; (3) has become known publicly, without fault of the Receiving Party; (4) the Receiving Party becomes aware of from a third party not bound by non-disclosure obligations to the Disclosing Party and with the lawful right to disclose such information to the Receiving Party; (5) is

independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information; or (6) is aggregate data regarding use of SilkRoad's products and services that does not contain any personally identifiable or Customer-specific information.

3.2 Non-Disclosure Obligations. Each party agrees: (a) to keep confidential all Confidential Information; (b) not to use or disclose Confidential Information except to the extent necessary to perform its obligations or exercise rights under this Agreement or as directed by the Disclosing Party; (c) to protect the confidentiality thereof in the same manner as it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of such Confidential Information) and (d) to make Confidential Information available to authorized persons only on a "need to know" basis. Either party may disclose Confidential Information on a need to know basis to its contractors and service providers who bound by written confidentiality agreements substantially similar to those set forth in this Agreement. Notwithstanding the foregoing, this Section will not prohibit the disclosure of Confidential Information to the extent that such disclosure is required by law or order of a court or other governmental authority or a regulation.

4. Ownership of Customer Data. As between SilkRoad and Customer, all title and intellectual property rights in and to the Customer Data is owned exclusively by Customer.

5. Warranties

5.1 Warranty of Functionality. SilkRoad warrants that (i) the Hosted Service will achieve in all material respects the functionality described in the Documentation applicable to the Hosted Service purchased by Customer, and (ii) such functionality of the Hosted Service will not be materially decreased during the Term.

5.2 No Virus Warranty. SilkRoad warrants that the Hosted Service will be free of viruses, Trojan horses, worms, spyware, or other such malicious code ("**Malicious Code**"), except for any Malicious Code contained in Customer-uploaded attachments or otherwise originating from Customer or its Users.

5.3 Disclaimer. *EXCEPT AS STATED IN SECTIONS 2 AND 5 OF THIS AGREEMENT, SILKROAD DOES NOT REPRESENT THAT CUSTOMER'S USE OF THE HOSTED SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE HOSTED SERVICE WILL MEET ALL OF CUSTOMER'S REQUIREMENTS OR THAT THE OVERALL SYSTEM OUTSIDE OF SILKROAD'S OWNERSHIP AND/OR CONTROL THAT MAKES THE HOSTED SERVICE AVAILABLE (THE INTERNET, OTHER TRANSMISSION NETWORKS, AND CUSTOMER'S LOCAL NETWORK AND EQUIPMENT) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE WARRANTIES STATED IN THIS SECTION 5 ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY SILKROAD. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT*

LIMITATION, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6. Limitations of Liability.

6.1 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR LOST PROFITS OR REVENUE OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, COST OF COVER, SPECIAL, RELIANCE OR EXEMPLARY DAMAGES, OR INDIRECT DAMAGES OF ANY TYPE OR KIND HOWEVER CAUSED, WHETHER FROM BREACH OF WARRANTY, BREACH OR REPUDIATION OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL CAUSE OF ACTION FROM OR IN CONNECTION WITH THIS AGREEMENT (AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES TO THE MAXIMUM EXTENT PERMITTED BY LAW).

6.2 THE MAXIMUM LIABILITY OF EITHER PARTY TO THE OTHER ARISING OUT OF OR IN THE CONNECTION WITH THIS AGREEMENT, INCLUDING THE USE OF THE HOSTED SERVICE, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, TORT, STATUTORY DUTY, OR OTHERWISE, SHALL IN NO CASE EXCEED THE EQUIVALENT OF 12 MONTHS IN SUBSCRIPTION FEES RECEIVED BY SILKROAD FROM THE CHANNEL PARTNER FOR THE HOSTED SERVICE PURCHASED ON BEHALF OF CUSTOMER THAT IS THE SUBJECT OF THE CLAIM.

6.3 THE PURPOSE OF THIS SECTION IS TO LIMIT THE POTENTIAL LIABILITY OF THE PARTIES ARISING FROM THIS AGREEMENT. THE FOREGOING LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF THE CUSTOMER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE AMOUNT OF FEES CHARGED FOR THE HOSTED SERVICE.

7. Termination

7.1 Termination for Cause, Expiration. Either party may immediately terminate this Agreement in the event the other

party commits a material breach of any provision of this Agreement that is not cured within thirty (30) days of written notice from the non-breaching party, or in the event that Customer's agreement with the Channel Partner pertaining to the resale of the Hosted Service terminates for any reason. Any notice by the complaining party hereunder shall expressly state all of the reasons for the claimed material breach in sufficient detail so as to provide the alleged breaching party a meaningful opportunity to cure such alleged breach and shall be sent to the General Counsel of the alleged breaching party at the address listed in the heading of this Agreement (or such other address that may be provided pursuant to this Agreement) ("**Notice**"). Upon termination or expiration of this Agreement for any reason, Customer shall have no rights to continue use of the Hosted Service.

8. Return of Customer Data

8.1 Handling of Customer Data In The Event Of Termination.

Customer agrees that following the termination or expiration of this Agreement, SilkRoad may immediately deactivate Customer's account and access to the Hosted Service and that following a reasonable period of time (but not less than ninety (90) days) shall delete Customer's account and data from SilkRoad's servers. During this ninety (90) day period and upon Customer's request, SilkRoad will provide one copy of the Customer Data at no charge in the format of a Microsoft SQL Server backup file containing encryption (or Secure FTP). Customer further agrees that SilkRoad shall not be liable to Customer nor to any third party for deletion of Customer Data, provided that SilkRoad is in compliance with the terms of this Section.

9.2 Customer Data Backup File During the Term. During the Term, Customer may request and SilkRoad will provide to Customer, no more than once per month, a complete copy of the Customer Data that resides in the Hosted Service database for the current administrative fee of five-hundred dollars (\$500 USD) per database per extraction, which may be chargeable via the Channel Partner.



Schedule A - Service Level Agreement

This Service Level Agreement (“SLA”) is a Schedule to the SilkRoad SaaS Terms and Conditions between SilkRoad Technology, Inc. and Customer (the “Agreement”), which is hereby incorporated by reference. This SLA applies to the Hosted Service during the Term. The Hosted Service shall be operated on the SilkRoad Network (as defined below) in a U.S. location unless another location is otherwise specifically provided for on a SilkRoad Order Form.

1. Availability.

a. Formula. The Hosted Service will, subject to the exceptions listed below, be available 99% of the time during each calendar month from the time that the Hosted Service is being used in Customer’s production environment following completion of implementation services (referred to herein as the “Availability Commitment”). The availability of the Hosted Service for a given month will be calculated according to the following formula (referred to herein as the “Availability”):

Where: $\text{Total minutes in the month} = \text{TMM}$
 $\text{Total minutes in the month the Hosted Service is unavailable} = \text{TMU}$

And: $((\text{TMM} - \text{TMU}) \times 100) / \text{TMM}$

b. For purposes of this calculation, the Hosted Service will be deemed to be unavailable (referred to herein as “Unavailable”) only (i) if the Hosted Service does not respond to HTTP requests issued by SilkRoad’s monitoring software, or (ii) for the duration of a Severity-1 Error as defined in the Customer Support Guide, attached as a Schedule to the Agreement. Further, the Hosted Service will not be deemed Unavailable for any downtime or outages that result from the exceptions set forth in Section 2 of this SLA. Customer acknowledges that SilkRoad’s system logs, records and data will provide the basis for SLA calculations and determinations.

2. Exceptions

a. The Hosted Service will not be considered to be Unavailable (and minutes will not accrue as TMU) for any downtime or outages that result from any maintenance performed by SilkRoad: (i) during the standard SilkRoad or Channel partner implementation period; (ii) during SilkRoad’s standard maintenance windows which currently occur Saturdays between 6 a.m. and 8 a.m. Eastern Standard Time (collectively referred to herein as “Scheduled Maintenance”); or (iii) during a maintenance period performed at Customer’s request outside of the normally scheduled maintenance window.

b. The SilkRoad network extends to, includes and terminates at the data center located router that provides the outside interface of each of SilkRoad’s WAN connections to its backbone network providers (referred to herein as the “SilkRoad Network”). The Hosted Service will not be considered Unavailable (and minutes will not accrue as TMU) for any downtime or outages that result from: (i) errors, unavailability or omissions in the Customer Data as provided by Customer, Customer’s information content or application programming interfaces, acts or omissions of Customer, Channel Partner, or their agents; (ii) delays or failures due to circumstances beyond SilkRoad’s reasonable control that could not be avoided by its exercise of due care (including Force Majeure events as set forth in the Agreement or errors or unavailability caused by Third Party Applications); or (iii) failures of the Internet backbone itself and the network by which Customer connects to the Internet backbone or any other network unavailability outside of the SilkRoad Network.

3. Remedies. Subject to the exceptions provided for in this SLA, Customer

may terminate this Agreement on written notice to SilkRoad and Channel Partner if SilkRoad fails to meet at least 95% of its Availability Commitment in two consecutive months or any three months in a six month period.



Schedule B - Customer Support Guide

TECHNICAL SUPPORT FOR SILKROAD SAAS OFFERINGS

This Customer Support Guide is a Schedule to the SilkRoad SaaS Terms and Conditions for Indirect Purchases (the "Agreement"). This Schedule sets forth the terms, conditions, and procedures under which maintenance and technical support ("Support") is offered for the current and one prior version of the Hosted Service during the Term.

1. GENERAL.

Scope. Support consists of: (a) telephone and email support; (b) correction of errors to keep the Hosted Service in conformance with the user Documentation included in the Hosted Service; and (c) updated versions of the Hosted Service provided by SilkRoad to its general customer base of subscribers at no additional charge. Support does not include: (i) set-up, installation, training or configuration of hardware and software required for the Customer to access the Hosted Service; or (ii) consultation, error correction, or research with respect to Customer Data or Customer-created documents and information.

Representative. Unless Channel Partner is providing support to Customer, the representative(s) designated by Customer will be SilkRoad's contact for communicating concerning Support as described herein ("Representative"). Customer may change the Representative(s) upon written notice to SilkRoad. Should Customer designate more than two Representatives per SilkRoad Hosted Service, SilkRoad reserves the right to charge or have Channel Partner charge Customer \$1,000 per year per additional Representative. Users who are not Representatives, including job applicants and other third parties, are not entitled to Support.

2. CUSTOMER SUPPORT.

Technical Support. Customer will have access to SilkRoad's technical support personnel ("Technical Support") as follows:

Hours: Monday - Friday, 12:01 am to 11:59 pm EST (excluding US holidays).

Phone: Toll Free: 866-803-9663; Direct: 904-438-2557

Email: support@silkroad.com

Web Support: <http://support.silkroad.com>

Outside the U.S.: Toll Free Australia (Sydney): 1800 141 218; Toll Free France: 0 805 089 397; Toll Free Hong Kong (HK): 800-967755; Toll Free India (Mumbai and Hyderabad): 1-800-100-4212; Toll Free Indonesia (Jakarta): 1-803-011-0890; Toll Free Japan (Tokyo): 0066-33-812816; Toll Free Malaysia (Kuala Lumpur): 1-800- 816274; Toll Free New Zealand (Auckland): 0800-453051; Toll Free Philippines (Manila) 1-800-1-116-1174; Toll Free Singapore: 800-120-6152; Toll Free Thailand (Bangkok): +(800) 12-066-5130; Toll Free UK: 0800-048-8107

Communications with Technical Support may be via telephone or e-mail (and may be recorded for quality assurance purposes). SilkRoad provides a single entry point of contact that routes requests/problems to the appropriate Technical Support resource. In addition to the support obligations listed above, SilkRoad will provide the following support twenty-four (24) hours a day, seven (7) days a week: phone or email support for Severity 1 level issues.

3. SEVERITY LEVELS.

Technical Support will prioritize problems/requests according to the severity levels set forth below. SilkRoad will use commercially reasonable efforts to respond according to the Response Specifications set forth below with respect to the Severity Level assigned to the problem:

Severity 1 – Critical

The Hosted Service suffers an error or issue in a production down situation that cannot be reasonably circumvented and which so substantially impairs the performance of the Hosted Service or any components of the Hosted Service, which are critical to the Customer's business, as to effectively render the Hosted Service unusable. SilkRoad will acknowledge any such reported error or issue within thirty (30) minutes and SilkRoad will work twenty-four (24) hours a day, seven (7) days a week to address and resolve the error and provide an applicable workaround or fix.

Severity 2 – Serious

The Hosted Service suffers an error or issue, which cannot be reasonably circumvented, and which substantially impairs the use of one or more portions or features of the Hosted Service required by Customer to perform necessary business functions but does not effectively render the Hosted Service unusable as a whole. SilkRoad will acknowledge any such reported error or issue within two (2) hours and, if Customer is using the Hosted Service in production, will work continually within normal business hours to address and resolve the error and provide an applicable workaround or fix.

Severity 3 – Moderate

The Hosted Service suffers a low impact error or issue (which is not of Severity 1 or Severity 2) that impairs the use of the features of the Hosted Service, but the reported error or issue can be reasonably circumvented. SilkRoad will acknowledge any such reported error or issue within eight (8) hours and will work within normal business hours to address and resolve the error and provide an applicable workaround or fix.

Severity 4 – Minor

The Hosted Service does not incur an error and allows Customer to function normal business operations; however, Customer inquiries about existing Documentation, training, standard use of the Hosted Service and other general questions. SilkRoad will acknowledge any such inquiry within twenty-four (24) hours and will work within normal business hours to address and resolve Customer's inquiry.

* Response times are measured from the time Customer or Channel Partner, if acting on behalf of SilkRoad, has spoken with or left a voicemail or email for a SilkRoad Customer support contact specifying the nature of the Customer's problem.

4. RESPONSE.

The Severity Level of the problems reported by Customer will be reasonably determined by SilkRoad. SilkRoad will resolve each reported error or issue with the Hosted Service by using commercially reasonable efforts to provide: (i) a patch or fix as necessary; or (ii) a reasonable workaround for the error or issue; or, if either (i) or (ii) are not reasonably practicable, a specific action plan regarding how SilkRoad intends to address the reported error or issue and an estimate on how long it may take to correct or workaround the error or issue. Customer agrees to use commercially reasonable efforts to assist and provide information to SilkRoad as required for resolving errors or issues with the Hosted Service reported by Customer. In the event SilkRoad fails to meet its obligations under this Section, SilkRoad will provide a root cause analysis including definition, corrections and process improvement plan. If a permanent repair cannot be made, a temporary resolution (bypass and recovery) will be implemented to the extent possible.

5. SILKROAD ISSUES.

Support covers any issue or problem that is the result of a verifiable, replicable error in the Hosted Service. SilkRoad will use commercially reasonable efforts to verify and replicate the issue or problem reported by Customer. If Technical Support reasonably determines that Customer's issue or problem is not caused by SilkRoad or its systems, equipment, or software, nor constitutes a material failure by the Hosted Service to function in accordance with the Documentation included in the Hosted Service, SilkRoad is not obligated to provide support under this Agreement. Nevertheless, SilkRoad will, if possible, offer suggestions as to how Customer can remedy the problem and SilkRoad may offer to provide out of scope professional services as described in Section 6 below.

6. ADDITIONAL SUPPORT.

Technical Support may also determine that Customer's request is a request for "**Additional Support.**" Additional Support is any assistance not covered in Section 5 above. Examples of Additional Support include substantive questions regarding data or results, requests for Hosted Service configuration, specialized training regarding use of the Hosted Service, custom documentation, and consulting. If SilkRoad believes that it can appropriately and effectively provide the requested Additional Support, it will offer to do so at \$225 per hour for professional services pursuant to a written agreement.

7. CUSTOMER'S RESPONSIBILITIES.

Customer's Representative will initiate all requests for Support. The Representative must be trained, qualified and authorized to communicate all necessary information, perform diagnostic testing under the direction of the SilkRoad service representative and be available during the performance of any Support if required.

8. SUBMITTING A REQUEST / GETTING AN ANSWER.

At the time of Customer's initial call or e-mail, please be prepared to provide:

1. Representative's name, company name and the Hosted Service Customer is using;
2. The type of browser (with release version) and hardware Customer is using;
3. Telephone number and alternate method of contact (i.e. a mobile number or email address);
4. A concise description of Customer's problem or question;
5. The time the error or problem occurred;
6. The circumstances under which the problem does or does not occur; and
7. Specific error messages, error numbers, log files and program numbers.

For new cases, a SilkRoad Customer Support Specialist will use the following process to assist Customer with a new case (problem):

1. Document the supplied information;
2. Document Customer's questions or issues (symptom and function in which it occurs);
3. Answer Customer's questions or have Customer run tests to further identify and isolate the problem; and
4. Research the problem and provide resolution according to the aforementioned guidelines.



Schedule C – General Terms

1. Customer Responsibilities. Customer and its Users will comply with all applicable local, state, federal, and foreign laws, treaties, regulations, and conventions in connection with its use of the Hosted Service, including without limitation those related to privacy, electronic communications and anti-spam legislation. Customer will not: (a) sell, lease, license or sublicense the Hosted Service; (b) introduce into or transmit through the Hosted Service any virus, worm, trap door, back door, and other harmful or malicious code, files, scripts, agents, or programs; (c) transmit or store infringing material in the Hosted Service; (d) send any Electronic Communication from the Hosted Service that is unlawful, harassing, libelous, defamatory or threatening. Except as permitted by this Agreement, no part of the Hosted Service may be copied, reproduced, distributed, republished, displayed, posted or transmitted in any form or by any means. Customer agrees not to access the Hosted Service by any means other than through the interfaces that are provided by SilkRoad. Customer shall not do any "mirroring" or "framing" of any part of the Hosted Service, or create Internet links to the Hosted Service which include log-in information, user names, passwords, and/or secure cookies.

2. Transmission of Data. The Hosted Service allows Customer to send Electronic Communications directly to SilkRoad and to third parties. Customer understands that the technical processing and transmission of Customer's Electronic Communications is fundamentally necessary to use of the Hosted Service. Customer expressly consents to SilkRoad's receipt and storage of Electronic Communications and/or Customer Data, and Customer acknowledges and understands that Customer's Electronic Communications will involve transmission over the Internet, and over various networks, only part of which may be owned and/or operated by SilkRoad. Customer further acknowledges and understands that Electronic Communications may be accessed by unauthorized parties when communicated across the Internet, network communications facilities, telephone or other electronic means. SilkRoad uses encryption in various locations and methodologies within the Hosted Service and the infrastructure working behind it. Customer Data is encrypted while in transit to and from the Hosted Service; however SilkRoad is not responsible for any Electronic Communications and/or Customer Data which are delayed, lost, altered, intercepted or stored during the transmission of any data across networks not owned and/or operated by SilkRoad,

including but not limited to, the Internet and Customer's local network.

3. Implementation. Implementation and training services ordered by Customer as set forth in the applicable Order Form will be performed in accordance with SilkRoad's customary practices for the level of services purchased. SilkRoad does not provide dedicated project management for Customer during implementation unless separately purchased. Implementation is performed remotely unless otherwise specified. SilkRoad is not responsible, and will not be liable, for Customer's configuration decisions or the Hosted Service's ability to allow Customer to comply with all laws and regulations in Customer's unique circumstances, nor for any delays in implementation caused by Customer, including but not limited to, Customer delays in providing clean and validated Customer Data, if needed, or Customer delays in making necessary business decisions with respect to the configuration of the Hosted Service.

4. Third Party Web Sites, Products and Hosted Services. Third party providers may offer Third Party Applications that integrate with or interoperate with the Hosted Services. Customer acknowledges and understands that the use of such Third Party Applications or services shall be subject to separate terms and conditions between Customer and the third party provider. SilkRoad does not warrant any such Third Party Applications or services. If Customer installs or enables Third Party Applications or services for use with the Hosted Service, Customer agrees that SilkRoad may allow such third party providers to access Customer Data as required for the interoperation of such Third Party Applications with the Hosted Service, and any exchange of data or other interaction between Customer and a third party provider is solely between Customer and such third party provider. Finally, the continuing availability of the Third Party Application is subject to the continued effectiveness and terms of the contract between Customer and the third party provider.

5. SilkRoad Intellectual Property Rights. Customer agrees that all rights, title and interest in and to all intellectual property rights in the Hosted Service and Documentation (including all updates, enhancements and derivative works thereof and thereto) are owned exclusively by SilkRoad or its licensors. Except as provided in this Agreement, the time-limited access license, in the nature of a subscription, granted to Customer

does not convey any rights in the Hosted Service, express or implied, or ownership in the Hosted Service or any intellectual property rights thereto. In addition, SilkRoad shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual license to use or incorporate into the Hosted Service any suggestions, enhancement requests, recommendations or other feedback voluntarily provided by Customer, including Users, relating to the operation of the Hosted Service. Any rights not expressly granted herein are reserved by SilkRoad. SilkRoad service marks and trademarks, logos and product and service names are marks of SilkRoad (the "**SilkRoad Marks**"). Customer agrees not to display or use the SilkRoad Marks in any manner without SilkRoad's express prior written permission. The trademarks, logos and service marks of Third Party Application providers ("**Marks**") are the property of such third parties. Customer is not permitted to use these Marks without the prior written consent of such third party who may own the Mark.

6. Indemnification

6.1 SilkRoad's Infringement Indemnity. SilkRoad shall, at its own expense and subject to the limitations set forth in this Section 6, defend Customer from and against any and all allegations, threats, claims, suits, and proceedings brought by third parties (collectively "**Claims**") alleging that the Hosted Service, as used in accordance with the terms and conditions of this Agreement, infringes the copyrights, trade secrets, patents or trademarks of such third party and shall hold Customer harmless from and against awarded damages or settlement amounts and litigation costs and expenses as approved by SilkRoad (including, reasonable attorneys' fees) (collectively, "**Losses**") to the extent based upon such a Claim. Excluded from these indemnification obligations are Claims to the extent arising from (a) use of the Hosted Service in violation of this Agreement or applicable law, (b) use of the Hosted Service after SilkRoad notifies Customer to discontinue use because of an infringement claim, (c) modifications to the Hosted Service not made by SilkRoad, or (d) use of the Hosted Service in combination with any software, application or service not provided by SilkRoad. If a Claim is brought or threatened, SilkRoad shall, at its sole option and expense, use commercially reasonable efforts either (i) to procure for Customer the right to continue using the Hosted Service without cost to Customer; (ii) to modify or replace all or portions of the Hosted Service as needed to avoid infringement, such update or replacement having substantially similar or better capabilities; or (iii) if (i) and (ii) are not commercially feasible, terminate the Agreement. The rights and remedies granted to Customer under this Section 8.1 state SilkRoad's entire liability, and Customer's exclusive remedy, with respect to any claim of infringement of the intellectual property rights of any third party.

6.2 Disclosure of Customer Data Indemnity. SilkRoad shall, at

its own expense and subject to the limitations set forth in this Section 8, defend Customer from and against any Claims that arise out of or result directly from SilkRoad's gross negligence or willful misconduct in preventing unauthorized access to confidential Customer Data and shall hold Customer harmless from and against liability for any Losses to the extent based upon such Claims. When SilkRoad is at fault but such fault does not rise to the level of gross negligence or willful misconduct, SilkRoad shall, at its own expense and subject to the limitations set forth in this Section 6 and for up to an amount equal to thirty-six months of then-current subscription fees paid by Channel Partner to SilkRoad for the Hosted Service subscription sold to Customer hereunder, defend and hold Customer harmless from and against any Claims and liability for any Losses from the unauthorized access to confidential Customer Data. Provided that SilkRoad complies with this Section 6.2, Customer shall be entitled as its sole and exclusive remedy for Claims under this Section 6.2, to receive any indemnification rights and to terminate the Agreement.

6.3 Customer's Indemnity. Customer shall, at its own expense and subject to the limitations set forth in this Section 6, defend SilkRoad from and against any and all Claims alleging that the Customer Data or any trademarks or service marks other than SilkRoad Marks, or any use thereof, infringes the intellectual property rights or other rights of a third party and shall hold SilkRoad harmless from and against liability for any Losses to the extent based upon such Claims.

6.4 Indemnification Procedures and Survival. In the event of a potential indemnity obligation under this Section 6, the indemnified party shall: (i) promptly notify the indemnifying party in writing of such Claim; (ii) allow the indemnifying party to have sole control of its defense and settlement; and (iii) upon request of the indemnifying party, cooperate in all reasonable respects, at the indemnifying party's cost and expense, with the indemnifying party in the investigation, trial, and defense of such Claim and any appeal arising therefrom. The indemnification obligations under this Section 6 are expressly conditioned upon the indemnified party's compliance with this Section 6.4. The indemnification obligations contained in this Section 6 shall survive termination of this Agreement for the later of the conclusion of a Claim or one year.

7. Suspension; Discontinuation of the Hosted Service.

7.1 Suspension for Delinquent Account. SilkRoad reserves the right to suspend Customer's and any Customer Affiliates' access to and/or use of the Hosted Service for any accounts for which Channel Partner provides credible evidence to SilkRoad that any undisputed Customer payment is due but unpaid. Customer agrees that SilkRoad shall not be liable to Customer or to any Customer Affiliate or other third party for any suspension of the Hosted Service pursuant to this Section.

7.2 Suspension for Ongoing Harm. Customer agrees that

SilkRoad may with reasonably contemporaneous telephonic or electronic notice to Customer suspend access to the Hosted Service if SilkRoad reasonably concludes that Customer's or a User's use of the Hosted Service: (i) is being used to engage in denial of service attacks, spamming, or illegal activity; or (ii) is causing immediate, material and ongoing harm to SilkRoad or others. In the extraordinary event that SilkRoad suspends Customer's access to the Hosted Service, SilkRoad will use commercially reasonable efforts to limit the suspension to the offending portion of the Hosted Service and to promptly restore the suspended access once the issues causing the suspension of the Hosted Service are resolved. Customer further agrees that SilkRoad shall not be liable to Customer nor to any third party for any suspension of the Hosted Service under such circumstances as described in this Section.

7.3 Warranty Breach. Customer's sole and exclusive remedy for SilkRoad's breach of an express warranty relating to the functionality of the Hosted Service shall be that SilkRoad shall be required to use commercially reasonable efforts to modify the Hosted Service to achieve in all material respects the functionality described in the Documentation. SilkRoad shall have no obligation with respect to such a warranty claim unless notified of such claim within six months of the first instance of any material functionality problem.

8. Dispute Resolution. Each party agrees that before it or any employee, agent or representative of the party files a claim or suit with a federal or state agency or court or other public forum, it shall provide thirty (30) days prior written notice to the other and that, within such thirty (30) day period (or longer, if extended by mutual desire of the parties), authorized representatives of the parties shall meet (or confer by telephone) at least once in a good faith attempt to resolve the perceived dispute.

9. General Provisions.

9.1 Notices. Notices between the parties will be by personal delivery, overnight delivery, or certified or registered mail, return receipt requested, and will be deemed given upon receipt at the address of the recipient party or ten (10) days after deposit in the mail, or via email with confirmation of receipt. Addresses used will be the ones set forth above or such other address as a party hereto will notify the other in writing.

9.2 Severability. In the event of any invalidity of any provision of this Agreement, the parties agree that such invalidity will not affect the validity of the remaining portions of this Agreement, and further agree to substitute for the invalid provision a mutually agreeable valid provision that most closely approximates the intent of the invalid provision.

9.3 Headings. The headings in this Agreement are for convenience of reference only and have no legal effect.

9.4 No Third Party Beneficiaries. This Agreement is intended

for the sole and exclusive benefit of the signatories and is not intended to benefit any third party. Only the parties to this Agreement may enforce it.

9.5 Assignment. Neither party may assign, transfer, or delegate any of its rights and obligations under this Agreement without the prior written consent of an authorized representative of the other party, except that a party may assign or transfer all or any portion of its rights or responsibilities under this Agreement by operation of law or otherwise to any other party in connection with a merger, acquisition, reorganization, or a sale of substantially all of its assets without prior notice to the other party. Any assignment in violation of this Agreement will be void and of no force and effect. All the terms and provisions of this Agreement will be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

9.6 Relationship. Each party hereto is an independent contractor, and neither party is, nor will claim to be, a legal representative, partner, franchisee, agent or employee of the other. This Agreement sets forth the Parties' entire liability and exclusive remedies relating to this Agreement and the Hosted Service provided to Customer under this Agreement.

9.7 Publicity. SilkRoad will not make other use of Customer's name, logo or trademarks or issue any public announcements or press releases regarding this Agreement without Customer's prior written consent.

9.8 Force Majeure. Neither party will be liable to the other for a failure or delay in its performance of any of its obligations under this Agreement (except for the payment of amounts due hereunder) to the extent that such failure or delay is caused by circumstances beyond its reasonable control or by events such as fire, riot, flood, labor disputes, natural disaster, regulatory action, internet or telecommunications failures, terrorist acts, or other causes beyond such party's reasonable control, provided that the non-performing party gives notice of such condition and continues or resumes its performance of such affected obligation to the maximum extent and as soon as reasonably possible.

9.9 Counterparts and Electronic Signatures. This Agreement may be executed in counterparts, each of which will constitute an original, and all of which will constitute one agreement. A signature transmitted via facsimile, scanned original or third party e-signature system will be deemed an enforceable signature for the purpose of demonstrating the signing party's assent to the Agreement.

9.10 Entire Agreement. This Agreement (including the Schedules hereto) constitutes the entire understanding and agreement between the parties with respect to the subject matter addressed herein and supersedes any and all prior or contemporaneous oral or written communications with respect to the subject matter hereof, all of which are merged herein. In the event of a conflict between the foregoing terms and conditions and any Schedules to this Agreement, the

foregoing terms and conditions will control. Any provisions necessary to interpret the respective rights and obligations of the parties hereunder will survive any termination or expiration of this Agreement, regardless of the cause of such termination or expiration.

9.11 Governing Law. This Agreement will be governed by the laws of the State of Illinois, excluding its rules regarding

conflicts of law. Venue for any dispute hereunder will be a court of competent jurisdiction located in Cook County, Illinois, and the parties irrevocably submit to the exclusive jurisdiction of such courts. All proceedings will be conducted, including all documents presented in such proceedings, in the English language. The English language version of this Agreement prevails over any other language version.