SilkRoad Client Data Processing and GDPR Addendum

This Data Processing and GDPR Addendum ("DPA") provides a set of supplemental obligations that SilkRoad Technology, Inc. ("SilkRoad") hereby assumes as part of the agreement (the "Agreement") with each SilkRoad customer (the "Customer") who has purchased and maintains an active subscription to use SilkRoad's software as a service (SAAS) products (the "Hosted Services"). This DPA shall be effective on the later of (i) the effective date of the Agreement, and (ii) 25 May 2018 ("Effective Date"). All capitalized terms not defined in this DPA shall have the meanings set forth in the Agreement. In the event that SilkRoad and Customer have entered into a separate signed agreement document with regard to compliance with the Data Protection Laws (defined below), this DPA shall not apply; provided, however, that at a minimum, SilkRoad shall in any case be bound by its obligations set forth in this DPA.

1. **Definitions**

   "**Affiliate**" has the meaning set forth in the Agreement.

   "**Agreement**" means the agreement between Client and SilkRoad for the provision of the SilkRoad Hosted Service to Client.

   "**California Privacy Statutes**" means the California Consumer Privacy Act of 2018, Cal. Civ. Code §§ 1798.100 et. seq. ("CCPA") and the California Privacy Rights Act of 2020 ("CPRA").

   "**Client Data**" has the meaning set forth in the Agreement.

   "**Client Personal Data**" means any Client Data that is Personal Data.

   "**Data Protection Laws**" means all data protection and privacy laws applicable to the respective party in its role in the processing of Personal Data under the Agreement, including, where applicable, EU Data Protection Law, the data protection laws in the United Kingdom and Switzerland and the California Privacy Statutes.

   "**Data Controller**" means an entity that determines the purposes and means of the processing of Personal Data.

   "**Data Processor**" means an entity that processes Personal Data on behalf of a Data Controller.

   "**EU Data Protection Law**" means (i) prior to 25 May 2018, Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of Personal Data and on the free movement of such data ("**Directive**") and (ii) on and after 25 May 2018, Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation) ("**GDPR**"), and repealing Directive 95/46/EC.

   "**Hosted Service**" has the meaning set forth in the Agreement.

   "**Personal Data**" means any information relating to an identified or identifiable natural person.

   "**Processing**" has the meaning given to it in the GDPR and "**process**", "**processes**" and "**processed**" will be interpreted accordingly.

   "**Security Incident**" means any unauthorized or unlawful breach of security in the Hosted Service that leads to the unauthorized disclosure of or access to Client Personal Data.

   "**Standard Contractual Clauses**" means the then-current Standard Contractual Clauses for International Transfers of Personal Data as approved by the European Commission, the United Kingdom, and Switzerland, respectively**.**

   "**Sub-processor**" means any Data Processor engaged by SilkRoad or its Affiliates to assist in fulfilling its obligations with respect to providing the SilkRoad Hosted Service pursuant to the Agreement or this DPA. Sub-processors may include third parties or SilkRoad's Affiliates.

   The terms, "**Controller**", "**Member State**", "**Processor**", "**Processing**" and "**Supervisory Authority**" shall have the same meaning as in the GDPR. The terms "**Business**", "**Business Purpose**", "**Consumer**" and "**Service Provider**" shall have the same meaning as in the California Privacy Statutes.

For the purpose of clarity, within this DPA "**Controller**" shall also mean "**Business**", and "**Processor**" shall also mean "**Service Provider**", to the extent that the California Privacy Statutes applies. In the same manner, Processor's Sub-processor shall also refer to the concept of Service Provider.

2. **Scope and Applicability of this DPA**
   2.1 This DPA applies where and only to the extent that SilkRoad Processes Client Personal Data on behalf of Client as Data Processor in the course of providing Hosted Service pursuant to the Agreement.
   2.2 Notwithstanding expiry or termination of the Agreement, this DPA will remain in effect until, and will automatically expire upon, deletion of all Client Personal Data by SilkRoad as described in this DPA or termination of the Agreement.

3. **Roles and Scope of Processing**
   3.1 **Role of the Parties**. As between SilkRoad and Client, Client is either the Data Controller of Client Personal Data, or in the case that Client is acting on behalf of a third-party Data Controller, then a Data Processor, and SilkRoad shall process Client Personal Data only as a Data Processor acting on behalf of Client.
   3.2 **Client Processing of Personal Data**. Client agrees that (i) it will comply with its obligations under Data Protection Laws in respect of its processing of Personal Data, including any obligations specific to its role as a Data Controller and/or Data Processor (as applicable), and any processing instructions it issues to SilkRoad; and (ii) it has provided notice and obtained (or will obtain) all consents and rights necessary under Data Protection Laws for SilkRoad to process Personal Data and provide the SilkRoad Hosted Service pursuant to the Agreement and this DPA. If Client is itself a Data Processor, Client warrants to SilkRoad that Client's instructions and actions with respect to that Client Personal Data, including its appointment of SilkRoad as another Data Processor, have been authorized by the relevant Data Controller to the extent required under applicable law.
   3.3 **Client Instructions**. SilkRoad will process Client Personal Data only for the purposes described in this DPA and only in accordance with Client's lawful instructions documented in this DPA, the Agreement, and via Client's use of the Hosted Service, and in order for SilkRoad to fulfil its obligations to provide Hosted Service under the Agreement ("Client Instructions"). The parties agree that this DPA and the Agreement set out the Client's complete and final instructions to SilkRoad in relation to the processing of Client Personal Data. Additional processing outside the scope of these Client Instructions (if any) will require prior written agreement between Client and SilkRoad.
   3.4 **Details of Data Processing.**
       a. Subject matter: The subject matter of the data processing under this DPA is the Client Personal Data.
       b. Purpose: The purpose of the data processing under this DPA is the provision of the SilkRoad Hosted Service to the Client and the performance of SilkRoad's obligations under the Agreement (including this DPA) or as otherwise agreed by the parties in mutually executed written form.
       c. Duration: As between SilkRoad and Client, the duration of the data processing under this DPA is until the termination of the Agreement in accordance with its terms.
       d. Nature of the processing: SilkRoad provides the Hosted Service, which may process Client Personal Data upon the instruction of the Client in accordance with the terms of this DPA, the Agreement, and Client Instructions.
   3.5 **Access or Use**. SilkRoad will not access or use Client Personal Data, except as necessary to maintain or provide the SilkRoad Hosted Service and its obligations under the Agreement, this DPA, or as necessary to comply with the law or binding order of a governmental body.

4. **Subprocessing**
   4.1 **Authorized Sub-processors**. Client agrees that SilkRoad may engage Sub-processors, to provide data centers to host Client Data and the Hosted Services application software, disaster recovery, and backup related services and to otherwise Process Personal Data on its behalf. Client hereby consents to SilkRoad's use to the Sub-processors currently utilized by SilkRoad to Process Client Personal Data. SilkRoad will provide a then-current list of the Sub-processors engaged by it on Client's written request. SilkRoad shall inform the Client (via an email or other electronic communication) of any intended addition of any new Sub-processor (whether to replace an existing Sub-processor or otherwise). If Client does not object to such new Sub-processor for a period of 10 days thereafter, Client shall be deemed to have consented to such new Sub-processor. If Client reasonably objects in writing within such 10-day period to SilkRoad's proposed use of such new Sub-processor, SilkRoad will either (i) refrain from permitting such objected-to new Sub-processor from Processing Client Personal Data within 30 days thereafter; or (ii) notify the Client within 30 days thereafter that it is not able to refrain from using such objected-to new Sub-Processor without adversely impacting the applicable Hosted Services product ("Non-Feasibility Notice"). Upon receipt of such Non-Feasibility Notice, Client shall have the option for a period of 30 days thereafter, terminate upon written notice its subscription to use only those Hosted Services products which cannot be provided by SilkRoad without the use of the objected-to new Sub-processor. Such termination shall be without penalty or liability (other than for fees due and owing to

SilkRoad for any services performed prior to such termination) effective immediately upon written notice of such termination to SilkRoad.

4.2 **Sub-processor Obligations**. SilkRoad will: (i) enter into a written agreement with the Sub-processor imposing data protection terms that require the Sub-processor to protect the Client Personal Data to the standard required by Data Protection Laws; and (ii) remain responsible for its compliance with the obligations of this DPA and for any breach of this DPA caused by acts or omissions of the Sub-processor to the same extent that SilkRoad would be liable if such breach was committed by SilkRoad.

5. Security

5.1 **Security Measures**. SilkRoad shall implement and maintain appropriate technical and organizational security measures to preserve the security and confidentiality of the Client Personal Data processed by the Hosted Service.

5.2 **Security Incident Response**. Upon confirming a Security Incident, SilkRoad shall: (i) notify Client without undue delay, and in any event such notification shall, where feasible, occur no later than 72 hours from SilkRoad confirming the Security Incident; (ii) provide timely information relating to the Security Incident as it becomes known or as is reasonably requested by Client; and (iii) SilkRoad shall promptly take reasonable steps to contain, investigate, and mitigate any Security Incident. SilkRoad's notification of or response to a Security Incident under this Section 5.2 (Security Incident Response) will not be construed as an acknowledgment by SilkRoad of any fault or liability with respect to the Security Incident.

6. Client Responsibilities.

Client agrees that SilkRoad has no obligation to protect Client Personal Data that Client elects to store or transfer outside of SilkRoad's systems (for example, offline or on-premises storage on Client's computers).

7. International Transfers

SilkRoad hosts Client Personal Data in the United States unless otherwise specified in the Agreement or the applicable Order Form), provided, however, that Client's Users may access and use the Hosted Service via the Internet from any international location where they connect to the Internet, and international transfers of Client Personal Data may take place in the ordinary course of providing Support and Maintenance for the Hosted Services. International transfers of Client Personal Data which are required under applicable privacy laws to be covered by the terms and principle set forth in the Standard Contractual Clauses shall be governed by the Standard Contractual Clauses, as applicable. In connection therewith, Annexes 1, 2 and 3 to this DPA shall be deemed to be appendixes to the applicable Standard Contractual Clauses.

8. Return or Deletion of Client Data

8.1 **Deletion by Client**. SilkRoad will cooperate with Client to enable deletion of Client Personal Data in accordance with the procedures set forth in 9.1 below.

8.2 **Deletion on Termination.** For 90 days following termination or expiration of the Agreement, Client may retrieve any remaining Client Personal Data in accordance with the Agreement. Thereafter, Client hereby instructs SilkRoad to automatically delete all remaining Client Personal Data. SilkRoad shall not be required to delete Client Personal Data to the extent (i) SilkRoad is required by applicable law or order of a governmental or regulatory body to retain some or all of the Client Personal Data; and/or (ii), Client Personal Data it has archived on back-up systems, which Client Personal Data SilkRoad shall securely isolate and protect from any further processing, except to the extent required by applicable law.

9. Cooperation

9.1 The SilkRoad Hosted Service provides Client with a number of controls that Client may use to retrieve, correct, or delete Client Personal Data, which Client may use to assist it in connection with its obligations under the GDPR, including its obligations relating to responding to requests from data subjects or applicable data protection authorities. To the extent that Client is unable to access the relevant Client Personal Data within the SilkRoad Hosted Service using existing controls or otherwise, SilkRoad shall offer consulting services to Client at time and materials rates to reasonably assist Client in responding to any requests from individuals or applicable data protection authorities relating to the processing of Client Personal Data under the Agreement. In the event that any request from individuals or applicable data protection authorities is made directly to SilkRoad, SilkRoad shall not respond to such communication directly without Client's prior authorization, unless legally compelled to do so. If SilkRoad is required to respond to such a request, SilkRoad will promptly notify Client and provide it with a copy of the request unless legally prohibited from doing so.

9.2 Client acknowledges that SilkRoad is required under the GDPR to: (a) collect and maintain records of certain information, including the name and contact details of each Data Processor and/or Data Controller on behalf of which SilkRoad is acting and, where applicable, of such Data Processor's or Data Controller's local representative and data protection officer; and (b)

make such information available to the supervisory authorities. Accordingly, Client will, where requested, provide such information to SilkRoad.

9.3 Security Reports and Audits. SilkRoad shall provide written responses on a confidential basis to reasonable requests for information made by Client related to its Processing of Client Personal Data related to information security and audit questionnaires necessary to confirm SilkRoad's compliance with this DPA and the Data Protection Laws, provided that Client shall not exercise this right more than once per year, and any such request shall not be made in a manner so as to interfere with SilkRoad business.

9.4 In the event the Client is required to carry out data protection impact assessments under EU Data Protection Law, SilkRoad will (at Client's request and expense) no more than once annually, provide reasonably requested information regarding the SilkRoad Hosted Service to enable the Client to carry out such data protection impact assessments.

10. California Privacy Statutes Standard of Care; No Sale or Sharing of Personal Information.

SilkRoad acknowledges and confirms that it does not receive or process any Personal Information as consideration for any services or other items that SilkRoad provides to Client under the Agreement. SilkRoad shall not have, derive, or exercise any rights or benefits regarding Personal Information Processed on Client's behalf, and may use and disclose Personal Information solely for the purposes for which such Personal Information was provided to it, as contemplated under the Agreement and this DPA. SilkRoad certifies that it understands the rules, requirements and definitions of the California Privacy Statutes and agrees to refrain from "selling" or "sharing" (as such terms are defined in the California Privacy Statutes) any Personal Information Processed hereunder without Client's prior written consent, nor take any action that would cause any transfer of Personal Information to or from SilkRoad under the Agreement or this DPA to qualify as "selling" or "sharing" such Personal Information under the California Privacy Statutes. SilkRoad shall comply with the California Privacy Statures and implement the privacy protections required under the California Privacy Statutes. SilkRoad shall not combine Personal Information received from Client and its Users with Personal Information collected through other means from third parties outside the context of the Agreement or this DPA. SilkRoad shall notify Client if it determines that it can no longer meet its obligations under the California Privacy Statutes.

11. Relationship with the Agreement

11.1 <u>Precedence</u>. The parties agree that DPA shall replace any existing DPA the parties may have previously entered into in connection with the SilkRoad Hosted Service. Except for the changes made by this DPA, the Agreement remains unchanged and in full force and effect. If there is any conflict between this DPA and the Agreement, this DPA shall prevail to the extent of that conflict in connection with its subject matter.

11.2 <u>Liability</u>. The liability of each party and each party's Affiliates under this DPA shall be subject to the exclusions and limitations of liability set out in the Agreement.

11.3 <u>Applicable Law</u>. This DPA will be governed by and construed in accordance with governing law and jurisdiction provisions in the Agreement, unless required otherwise by applicable Data Protection Laws.

11.4 <u>Termination</u>. This DPA will continue for so long as SilkRoad is hosting, storing and/or processing Client Personal Data in connection with the Agreement.