

YAKABOD

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11.6 *Licensee Data Access.* During the term, Licensee has the right at all times to access Licensee Data stored within the Software using the standard methods of data access provided by the Software. Upon termination of any license, provided that such occurs prior to the return or destruction of such Software in accordance with Section 2.3(b), Licensee shall have the right to extract Licensee Data from the Software into industry standard formats utilizing the Software’s standard capabilities (which provided formats and capabilities are at Yakabod’s sole discretion). Subject to Licensee’s payment of Yakabod’s then-current rates and terms for doing so, and provided that Licensee is not then in breach of the Agreement, Yakabod agrees to make commercially reasonable efforts to assist Licensee in extracting Licensee Data using the Software’s standard features and into industry standard formats; should Licensee request Yakabod to assist Licensee in extracting Licensee Data into non-industry standard formats, such assistance shall be in the sole discretion of Yakabod and subject to Licensee’s payment of Yakabod’s then-

current rates and then-standard terms for doing so. The terms of this section 11.6 shall in no way relieve Licensee of its obligations under Sections 2.1 and 2.4(b).

11.7 *Backup of Data.* Notwithstanding Section 11.6, Licensee acknowledges that Licensee is solely responsible for creating periodic, timely, accurate backups of the Software and the Licensee Data stored within. In the event that some or all of the Licensee Data is destroyed by the Software or other mechanism, or becomes inaccessible through the Software, then on-going access to Licensee's Data may only be possible through the successful restoration of backups created by Licensee. Yakabod agrees to use commercially reasonable efforts within the scope of its standard Support Program to assist Licensee in restoring the Licensee-created backup and restoring access to Licensee Data through the Software; however, Licensee acknowledges that the backup is its sole responsibility and that Yakabod will not be liable for any loss or destruction of Licensee Data due to Licensee's failure to create timely or accurate backups of the Software and the Licensee Data stored within nor will Yakabod expend resources beyond the scope of its standard Support Program in any attempts to restore Licensee's access to Licensee Data.

11.8 *Yakabod Data Access and Confidentiality of Data.* Yakabod shall not access Licensee Data without written permission from Licensee. The foregoing notwithstanding, and to enable Yakabod to provide Support to Licensee per section 4 or to provide other services to Licensee as requested by Licensee, Licensee hereby grants Yakabod permission to access Licensee Data in the event such access is required in order for Yakabod to perform Support services or other services for Licensee and at Licensee's request.

11.9 *Legal / Governmental Request for Data.* Where a Receiving Party is required to provide access to Confidential Data of a Disclosing Party pursuant to the order of a court or administrative body of competent jurisdiction or a government agency, the Receiving Party shall: (i) if practicable and permitted by law, notify the Disclosing Party prior to such disclosure, and as soon as possible after such order; (ii) cooperate with the Disclosing Party (at the Disclosing Party's costs and expense) in the event that the Disclosing Party elects to legally contest, request confidential treatment, or otherwise attempt to avoid or limit such disclosure; and (iii) limit such disclosure to the extent legally permissible.

12. GENERAL PROVISIONS.

12.1 *Entire Agreement; Amendment.* This Agreement constitutes the entire agreement with regard to the subject matter hereof, supplemented only by the Contract Documents. No waiver, consent, modification or change of terms of this Agreement shall bind any party unless in writing signed by such party, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

12.2 *Relationship.* No agency, partnership, joint venture or employment is created between the parties hereto as a result of this Agreement. Neither party is authorized to create any obligation, expressed or implied, on behalf of the other party, or to exercise any control over the other party's methods of operation, except as specifically provided herein.

12.3 *Governing Law; Dispute Resolution.* This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, United States of America, without regard to its choice of law provisions, as such laws are applied to agreements entered into and to be performed entirely within the State of Maryland between residents of Maryland, and shall not be governed by the provisions of the Convention on Contracts for the International Sale of Goods or any version of the Uniform Computer Information Transactions Act. The parties agree to meet and confer in good faith (including by telephone) to resolve any claims or disputes, whether based on contract, tort or other legal theory (including any claim of fraud or misrepresentation), arising out of or relating to this Agreement, including the interpretation, performance, breach or termination thereof. Any such claims or disputes that remain unresolved shall be exclusively brought and resolved either in the Circuit Court for Frederick County, Maryland, or the United States District Court for Maryland, and all applicable appellate courts. The parties expressly consent to the exclusive jurisdiction and venue of such courts. Notwithstanding the foregoing, either party may enforce

any judgment rendered by such courts in any court of competent jurisdiction, and Yakabod may seek injunctive relief in any court of competent jurisdiction in order to protect its intellectual property rights.

12.4 Waiver. The waiver by any party hereto of a breach or a default of any provision of this Agreement by another party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such party.

12.5 Headings. Captions and headings contained in this Agreement have been included for ease of reference and convenience and shall not be considered in interpreting or construing this Agreement. Any use of the term “include” or “including” shall mean “include without limitation” and “including without limitation,” respectively.

12.6 Assignment; Successors. The terms and conditions of this Agreement shall inure to the benefit of and be enforceable by the parties hereto and their permitted successors and assigns; provided that Licensee shall not assign this Agreement or any right, interest or obligation under this Agreement, or in or relating to the Software, without Yakabod’s prior written consent. Any attempted assignment or delegation in contravention of this provision (whether at law or in equity) shall be void and ineffective. Yakabod shall be permitted to assign this Agreement in connection with a merger, share exchange, corporate reorganization, or the sale of all or substantially all of the business or assets of Yakabod, whether by merger or operation of law.

12.7 Notices. Any notice or communication from one party to the other required or permitted to be given hereunder shall be in writing and either personally delivered or sent via nationally recognized courier delivery to such other party at the address specified in the invoice or other license purchase documentation for the Software or such other address as either party may from time to time designate in writing to the other party in accordance with this Section. All notices shall be in English and shall be effective upon actual receipt, irrespective of the date appearing thereon. Unless otherwise requested, all notices to the parties shall be to the attention of their Chief Financial Officer.

12.8 Priority. To the extent that the terms and conditions of this Agreement conflict with any other terms and conditions provided in the Contract Documents relating to the license of the Software, the terms and provisions of the Contract Documents shall be controlling.

12.9 Contact. If you have any questions concerning these terms and conditions, or if you would like to contact Yakabod for any other reason you may do so at the following address: Yakabod, 340 East Patrick Street, Suite 300, Frederick, MD, 21701, United States, Attention: VP of Business Development; <http://www.yakabod.com/support>; support@Yakabod.com; +1.301.662.4554.

Exhibit A

Acceptable Use Policy

1. Responsibility for Licensee Content and Actions. Licensee is solely responsible for all content generated, transmitted, distributed, copied, created, obtained or otherwise used by Licensee in connection with its remote use of any Software, including all Licensee Data (collectively, the "Licensee Content"). Licensee represents and warrants to Yakabod that: (a) at all times Licensee owns or has the right to use and offer Licensee Content; (b) the Licensee Content will at all times comply with this AUP; and (b) the Licensee Content does not and will not, infringe or otherwise violate any patent, copyright, trademark, trade secret, confidentiality, privacy or other proprietary right of any third party. Licensee shall have sole responsibility for obtaining necessary licenses and copyright clearances for any Licensee Content created by third parties.

2. Ownership of Licensee Content. Except as otherwise provided in this Agreement, all right, title and interest in and to the Licensee Content will remain vested in Licensee. Notwithstanding the foregoing, Yakabod and its agents and vendors will be entitled to use, access, view, monitor and otherwise deal with the Licensee Content as necessary or appropriate for such parties to perform Yakabod's obligations hereunder, enforce the terms of this Agreement or the AUP, or to cooperate with any investigation, inquiry or other activity by any governmental, quasi-governmental agency, or Yakabod's quality assurance/quality control and research and development activities. Solely for the purposes mentioned in the preceding sentence, Licensee expressly: (a) grants to Yakabod and its vendors and to such parties' contractors and designees, a license to cache and to backup all Licensee Content hosted or stored by Yakabod or its vendors under this Agreement; and (b) represents and warrants that such caching or backup is not an infringement of any of its Intellectual Property Rights or any third party's Intellectual Property Rights.

3. Prohibited Activities. Licensee will not engage in any unlawful or inappropriate activity in connection with its remote access or use of any Software. Without limiting the generality of the foregoing, Licensee agrees not to:

- (a) send unsolicited bulk and/or commercial messages, chain letters or other mass emails over the Internet (known as "spamming");
- (b) engage in harassment, impersonation, identity theft, propagation of computer viruses, or unauthorized entry to any computer, system, device, or network;
- (c) maintain an open SMTP relay;
- (d) infringe or misappropriate the Intellectual Property Rights of others, including any copyright, trademark, service mark, trade dress, trade secret or patent;
- (e) violate any privacy right of any person or entity, such as by collecting, storing, distributing or using information about persons without their permission or otherwise in violation of applicable law;
- (f) violate any publicity or other personal right of any person or entity;
- (g) omit, delete, forge, or falsify address information or modify transmission of headers, return address information, IP addresses, or take any other action intended to destroy or modify the identity or contact information of a user, sender, or recipient;
- (h) advertise, transmit, store, post, display, or otherwise make available child pornography or obscene material. Yakabod is required by law to notify law enforcement agencies when it becomes aware of the presence of child pornography on, or being transmitted through, Yakabod's network;
- (i) access any computer, account, or network belonging to another party, or attempt to penetrate security measures of another party's system, illegally or without authorization;
- (j) engage in any activity that might be used as a precursor to an attempted penetration of any computer, account, or network belonging to another party (i.e. port scan, stealth scan, or other information gathering activity);

(k) distribute information regarding the creation or distribution of viruses, worms, Trojan horses, pinging, flooding, mailbombing, or denial of service attacks;

(l) engage in any activity that causes or contributes to the disruption or interference with the ability of other Yakabod customers to effectively use the network or any connected network, system, service, or equipment;

(m) export software to points outside the United States in violation of applicable laws;

(n) advertise, transmit, or otherwise make available any software, program, product, or service that is designed to engage in any activity that would violate this AUP;

(o) engage in any illegal activity, such as wire fraud, advertising, transmitting, engaging in or otherwise making available ponzi schemes, pyramid schemes, fraudulently charging credit cards or pirating software;

(p) unlawfully advertise, promote or distribute tobacco, controlled substances or firearms;

(q) in connection with any VoIP service, operate predictive dialers or engage in continuous call forwarding, excessive calling to high-cost termination locations, auto-dialing, fax or voice blasting/broadcasting, telemarketing, call centers, any atypically high-volume calling operations, or violation of any laws;

(r) violate the terms of service or acceptable use policy of any website or network-enabled location that Licensee visits, in whole or in part; or

(s) engage in any other activity, whether lawful or unlawful, that Yakabod reasonably determines to be harmful to its customers, operations, reputation, goodwill, or customer relations.

4. Licensee Assistance. Licensee will affirmatively notify Yakabod of any material violations of this AUP of which Licensee becomes aware and reasonably cooperate in resolving any such violations.