

**Last Updated: April 2, 2024**

**Unless otherwise prohibited by law, the following Terms of Service apply** THIS AGREEMENT GOVERNS YOUR USE OF SQUARE 9'S CLOUD HOSTED PLATFORM FOR ECM AND DIGITAL TRANSFORMATION (THE SERVICES) WHICH MAY INCLUDE GLOBALSEARCH CLOUD, GLOBALCAPTURE CLOUD TRANSFORMATION SERVICES OR GLOBALFORMS CLOUD. THE TERMS AND CONDITIONS OF THIS AGREEMENT AND ANY ADDITIONAL TERMS ENTERED INTO BY YOU AND SQUARE 9 SOFTWARES INC. ("SQUARE 9") ARE COLLECTIVELY REFERRED TO AS THE "AGREEMENT."

BY USING THE SQUARE 9 CLOUD PLATFORM, YOU HEREBY ACCEPT THE CONDITIONS STIPULATED IN THE CLOUD TERMS OF SERVICE. IF YOU ARE NOT IN AGREEMENT WITH THESE TERMS, DO NOT USE THIS PLATFORM.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

THE "EFFECTIVE DATE" OF THIS AGREEMENT IS THE DAY THAT YOU CHECK THE "ACCEPT" BOX OR SIGN (EITHER MANUALLY OR ELECTRONICALLY) THE ONLINE OR WRITTEN FORM OF THIS AGREEMENT ISSUED TO YOU BY SQUARE 9 OR ITS AUTHORIZED RESELLER.

## **1. Definitions**

“Affiliate(s)” means any entity, including and without limitation, any individual, corporation, company, partnership, limited liability company, or group that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such party.

“Documentation” means the instructions, manuals, or other materials regarding the use of the Services that Square 9 makes generally available to its Services users.

“Intellectual Property Rights” means rights in unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, know-how, and other trade secret rights, and all other intellectual property rights in the broadest meaning of the term, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

“License” means the limited grant by Square 9 to use the Service in accordance with this Agreement.

“Service(s)” means the products and services that are ordered by You and made available online by Us, including associated offline components.

“Square 9 Technology” means all of Square 9’s proprietary technology (including the Services and all proprietary software, hardware, products, processes, algorithms, user interfaces, reports, know-how, techniques, designs, and other tangible or intangible technical material or information) made available to You by Square 9 in connection with this Agreement.

“User” means an individual authorized by You to use the Service, for whom you have ordered the Service, and to whom You (or We at Your request) have supplied a user identification and password. Users may include, for example, your employees, consultants, contractors, agents, and third parties with which You transact business.

“Your Data” means any documents, files, information, or data stored or processed by or for You to the Services or collected and processed by or for You using the Services, excluding Square 9 Technology.

## **2. Description of Services**

The Square 9 Cloud is a hosted Intelligent Information Management (IIM) and Digital Transformation platform that provides a formalized means for capturing, organizing, and storing an organization’s documents, and other content, that relate to the organization’s processes. The terms Intelligent Information Management and Digital Transformation encompass strategies, methods, and tools used throughout the lifecycle of the content.

## **3. Initiation of Service**

Square 9 will make a best effort to initiate service and issue log in credentials to the registered user within 48 hours of order placement. The Effective Date of Service for your agreement will commence with the initiation of these services from Square 9.

## **4. Storage Capacity**

Your cloud instance includes storage for your documents and the related data which is determined by your product tier. These tiers are as follows:

- Process Automation Essentials - 10GB
- Digital Transformation Essentials - 20 GB
- Enterprise Transformation Essentials - 100GB

Users of the platform may expand their storage indefinitely by subscribing to additional storage units. When storage levels reach 75%, you will be informed through in-product notifications that you are approaching the limit of your storage capacity. Additional notifications will follow at 90% and 100%. You are responsible for contacting Square 9 or your authorized Square 9 reseller to

arrange for additional storage or to delete unneeded documents from the system.

Please note: Once your document storage reaches 100% of your subscribed storage capacity, users will be denied access to the system until additional storage units are added.

## 5. Renewal of Service

You will receive notification of your service renewal within 90 days of the anniversary of your Effective Date of Service (The Renewal Date). If you elect to continue your Service, Square 9 or an Authorized Square 9 Reseller must receive a valid purchase order or payment before the Renewal Date.

Payment of Services – In consideration of the Services provided by Square 9, You agree to pay for service renewal within thirty (30) days of the invoice date.

- a) Late Fees – For any fees not paid within thirty (30) days of its due date, you shall be liable for late charges at the rate equal to the lesser of 1.5% per month, or the highest rate allowed by law, calculated from the due date until the amounts are paid, together with all costs and expenses incurred in collection, including reasonable attorneys' fees.
- b) Payment Dispute – If You believe the Square 9 bill is incorrect, you must contact Square 9 at [accounting@square-9.com](mailto:accounting@square-9.com) within thirty (30) days of the invoice date stating the amount in question and the reason for non-payment of that amount to be eligible to receive an adjustment or credit. In any event, you must pay the undisputed amount based on the payment terms that were agreed on with Square 9.

## 6. Term and Termination

Unless terminated earlier pursuant to the conditions listed in the GlobalSearch Cloud EULA, the initial term (“Initial Term”) of this Agreement shall be for a period of twelve (12) months from the Effective Date and may be renewed

under this Agreement for subsequent twelve (12) month terms (“Subsequent Terms”) unless either Party provides notice of termination thirty (30) days prior to the expiration of any Term. The Initial Term and any Renewal Terms are collectively referred to herein as the “Term.”

Either party can terminate this Agreement upon written notice if the other party breaches any material term or condition of the Agreement and such breach remains uncorrected for thirty (30) calendar days following written notice from the non-breaching party specifying the breach. Termination of this Agreement shall be without prejudice to the survival of provisions in this Agreement which by their nature survive termination.

## **7. Rights to Data and Content**

You shall have thirty (30) days from the termination of the Agreement to download a copy of your data and content from GlobalSearch Cloud using the standard means provided. All data may be exported in an industry-standard, nonproprietary format. You may also request that the Square 9 Professional Services Group provide a copy of that data as a service which will be charged for at the current billable per diem rate. After the 90-day period following the date of termination, Square 9 shall have no obligation to maintain or provide any of our data or content and shall thereafter, unless legally prohibited, delete all data and content in its systems or otherwise in its possession or under its control.

## **8. Your Responsibilities**

You shall provide Square 9 with all necessary cooperation and all necessary access to such information as may be required by Square 9 to provide the Service. You shall comply with all applicable laws and regulations with respect to its activities under this Agreement. You shall: (i) notify Square 9 immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) suspend all user accounts for individuals who are no longer authorized to access those accounts, and (iii)

comply with any instructions concerning access to and/or use of the Services that Square 9 may give from time to time.

## 9. API Acceptable Use

The APIs provided by Square 9 are intended to facilitate integration and interoperability between the User's systems and Square 9's services.

You agree to a. use the APIs solely for the purpose of accessing and utilizing the services provided by Square 9 as per the Cloud Terms of Service. b. You agree not to use the APIs for any unlawful, fraudulent, or unauthorized purposes. c. You agree to comply with all applicable laws and regulations while using the APIs.

You agree not to a) modify, reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the APIs. b. not to interfere with or disrupt the integrity or performance of the APIs or Square 9's services. c. not to use the APIs to transmit any viruses, worms, malware, or other harmful code. d. not to engage in any activity that may overload, harm, or impair the functioning of the APIs or Square 9's systems as listed below. e. agree not to access or attempt to access the APIs through any means other than the interfaces provided by Square 9.

You agree to abide by any usage limits or quotas set by Company for the APIs and understands that exceeding these limits may result in additional fees, suspension, or termination of access to the APIs. Please contact Square 9 at [support@square-9.com](mailto:support@square-9.com) if you require additional API calls for your instance.

- Process Automation Essentials - Limited to 250 calls per day or not more than 50 per hour
- Digital Transformation Essentials - Limited to 500 API calls per day or not more than 75 per hour
- Enterprise Automation Essentials - Limited to 1,000 API calls per day or not more than 100 per hour

You agree to implement reasonable security measures to protect access credentials provided by Square 9 for using the APIs and agree to promptly notify Square 9 of any unauthorized access or use of the APIs.

Square 9 reserves the right to monitor Your use of the APIs to ensure compliance with this agreement. and reserves the right to enforce these terms by suspending or terminating Your access to the APIs in case of violation.

Square 9 reserves the right to modify, update, or discontinue any aspect of the APIs at its discretion. Company will make reasonable efforts to notify You of any material changes.

You agree to indemnify and hold harmless Square 9 from any claims, damages, or liabilities arising out of Your use of the APIs in violation of this Agreement.

## **10. Service Level Performance and Support**

Square 9 endeavors to provide 99.999% uptime availability per month during Service Business Hours, not to include maintenance or upgrades on the system. "Uptime" is defined as time when You have the ability to access and use the Services and Square 9 measures Service Uptime by consecutive seconds over the period of a calendar month.

Downtime is defined as the inability of most users to access the servers and majority of applications of the Service. Specifically excluded from the definition of Downtime are:

- Downtime resulting from requests by You;
- Network errors and hardware failures outside the control of Square 9 or agents of Square 9; Server errors and limitations set by third-party service providers;
- Planned maintenance;
- Maintenance that is performed between 10:00 pm and 4:00 am ET;
- Outages resulting from the actions of You, its employees, and agents, other than normal operation of the Services;

- Any other unavailability caused by circumstances beyond Square 9's reasonable control as specified in this Agreement; and
- Loss of functionality as a result of updates other than to the Services (i.e. operating systems, third-party applications, etc.).

If Square 9 repeatedly fails to meet the stated service levels causing an interruption in your business operations, you will receive a 15% reduction in the following month's service fee. Square 9 must be notified in writing of any request for compensation with details of the failure and resulting interruption of business hours. The above states Your sole remedy in relation to service availability.

## **11. Product Upgrades**

GlobalSearch Cloud is typically upgraded twice annually in accordance with the Square 9 development release schedule.

Square 9 shall provide You with at least forty-eight (48) hours' notice of any scheduled maintenance on the Service and Square 9 will use commercially reasonable efforts to conduct maintenance during non-business hours. In the event Square 9 is unable to provide forty-eight (48) hours' notice of any planned or unplanned outages or unavailability of Services, Square 9 shall use good faith efforts to promptly notify You that it anticipates or has discovered such outages or downtime.

## **12. Data Durability**

The redundant nature of the GlobalSearch Cloud platform delivers 99.999 data durability.

- Versions of your files are stored in multiple locations (no less than 3) by Square 9's back-end infrastructure. Customers may opt-in to features that support replication of documents to other geographic regions for an additional fee.



- Previous copies of files (documents that have been updated/replaced) are kept for a period of 90 days. Versions of deleted files are also retained for the same 90-day period and may be restored at any time with the assistance of the Square 9 Software Support team as a billable service.
- All databases/user data is backed up and is recoverable for a rolling 90-day period, meaning data may be recovered to any day within the last 90 days.

## **13. Software Support**

Service Business Hours: The support team is available Monday through Friday, 8:30 AM Eastern Time to 7:30 PM Eastern Time, excluding federal U.S. holidays.

Once engaged, Square 9 will work with Your representative to resolve the problem by either providing a resolution, steps towards a resolution, a workaround, configuration changes, or escalation of a defect report.

Square 9 will work continuously (24 x 7) using diligent efforts on an Urgent request until the issue is resolved, is determined to be unresolvable, or the issue is resolved with a work around sufficient to re-categorize to the Medium Level.

<b>Support Phone</b>	Dial +1 (203) 789 0889 and select Option 2 from the menu
<b>Support Email</b>	support@square-9.com
<b>Ticket Creation Form</b>	Available at <a href="http://www.square-9.com/support">http://www.square-9.com/support</a>
<b>Standard Operating Hours</b>	Monday – Friday 8:00AM – 8:00 PM Eastern Time Excluding recognized US holidays

## Case Severity Levels

Response Time is defined as the length of time Square 9 initiates contact on a logged issue with our Support Desk. Cases must be opened by voicemail, email request to [support@square-9.com](mailto:support@square-9.com) or through our [Support page on our website](#).

All Acceptable Response Times are expected to fall within Square 9's Business Hours. Cases not opened within Square 9's Support hours of 8:30 AM to 7:30 PM Eastern will be picked up the following business day.

## Case Priority Levels

When evaluating cases, the triage team uses the below criteria to assign a case priority level:

Severity	Definition	Customer Type	Standard Response Time
Critical	System down state impacting all or most users.	Production customers only.	20 minutes
High	Significant system degradation in performance or function, impacting all or most users.	Production customers, or customer moving into a go-live state.	1 hour
Medium	Any customer issue without a specific or known workaround, impacting a small subset of users, or customers	Any	3 hours
Low	Any general request for information.	Any	8 hours

# Case Priority Examples

## Critical Priority

- Complete system failure
- All system processing has halted or is impacted

## High Priority

- Majority of the system is failing
- Majority of system processing has halted or is impacted

## Medium Priority

- Isolated occurrences with specific system users, majority of the user population unaffected
- A single step in a process is functioning incorrectly but doesn't impact the overall process

## Low Priority

- A how-to question related to future growth of the system
- An issue reported on a test or development server not impacting production

## **Case Escalation**

After a case has been worked on for 30 minutes without progress or resolution, the case will be escalated according to the escalation schedule below. Please note that Critical and High priority cases automatically start in an escalated state.

## **Case Closure**

Once it has been determined the question is answered or the problem solved, the Support team will mark the case closed. A closed case can be reopened at any time in the event an issue reoccurs, or the recommended solution isn't permanent.

If a workaround or solution is found independent of working with the Support team, all case emails from our Support team will contain a link to self-close your case. It is appreciated when self-close is utilized to allow our Support team to focus their efforts on open active cases.

If the case is initially deemed to be suitable for our Professional Services group, the case will be closed, and information transferred to that group for project scoping and the potential quoting of billable hours.

## **14. Grant of License; Restrictions**

14.1 Square 9 grants You a limited, non-exclusive, non-transferable License to use the Services on behalf of a limited number of Users solely for Your own internal business purposes, subject to the terms and conditions of this Agreement. The number of unique Users licensed to use the Services

pursuant to the terms hereof is set forth in the product registration form. All rights not expressly granted herein are reserved by Square 9

14.2 Square 9 shall provide You with unique usernames and access passwords to the system. All users must have a named license for access to the system.

14.3 With respect to the Services, You shall not: (i) sell, resell, transfer, assign, distribute or otherwise commercially exploit or make it available to any third party in any way (except that You may allow Your contractors to access the Services in order to perform their obligations towards You); (ii) transmit or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs or upload, post, or transmit any unlawful, harassing, libelous, or abusive material on the Service; (iii) interfere with or disrupt the integrity or performance of the Services or the data contained therein; (iv) attempt to gain unauthorized access to the Services or its related systems or networks; (v) reverse engineer, decompile, or disassemble the Services or any Square 9 Technology.

## **15. Indemnification**

15.1 You shall defend, indemnify, and hold harmless Square 9 and its affiliates, and their officers, shareholders, employees, agents, successors and assigns (each a "Square 9 Indemnified Party") from and against any and all damages, losses, costs and expenses (including any reasonable attorney's fees and expenses) in connection with any claim, suit, action, or proceeding ("Claims") brought against a Square 9 Indemnified Party to the extent arising out of: (a) Your use of the Services, (b) any gross negligent act or willful misconduct by Users and any agents, employees, or subcontractors of You, or (c) an allegation that Your Data or any other content, data or information supplied by You, or the use thereof infringes the Intellectual Property Rights of a third party.

15.2 Square 9 shall defend, indemnify and hold You harmless against any loss or damage (including reasonable attorneys' fees) incurred in connection with

any Claim brought against You by a third party for: (a) any grossly negligent act or willful misconduct by agents, employees, or subcontractors of Square 9, or (b) alleging that the use of the Services as contemplated hereunder infringes any copyright, trademark or trade secret rights of a third In the event that the Services or any part thereof are likely to or do become the subject of an infringement related Claim, and Square 9 cannot, at its sole option and expense, procure for You the right to continue using the Services, or any part thereof, or modify the Services, or any part thereof, to make them non-infringing, then Square 9 has the right to terminate this Agreement.

## **16. Your Data**

16.1 You acknowledge that to use the Services, you will be required to provide Square 9 with Your Data for which the Services are to be provided. Square 9 acknowledges that Your Data shall be Your Confidential Information and that Square 9 does not own Your Data, information, or material that You may submit to Square 9 or that Square 9 may store in the course of You using the Services. Square 9 may store and process Your Data through a third-party hosting service in the United States as long as Square 9 and the third party execute a confidentiality agreement that protects Your Confidential Information to the same extent as this Agreement.

16.2 All cloud instances are provisioned in a data center within the continental United State unless otherwise requested by that customer. Square 9 affords the customer an option however to assign their data center of choice as part of the provisioning process.

16.3 Square 9 will not sell, rent, or lease any personally identifiable information included therein to third parties, without receiving Your prior explicit consent, except in any of the following instances:

- a) To operate the Services, including storing and processing Your Data through third party hosting services;
- b) If Square 9 is required by applicable law, rules, or regulations to do so but only to the extent required by law upon notice to You.
- c) If Square 9 is acquired by, or merged with another entity, provided,

however, that those entities agree to be bound by the provisions of this Agreement.

## **17. IP Ownership and Confidentiality**

17.1 Square 9 alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights in and to the Services and the Square 9 Technology and any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by You or any other party relating to the Square 9's name, Square 9's logo, and the product names associated with the Services are trademarks of Square 9 or third parties, and no right or license is granted to use them.

17.2 Square 9 and You shall preserve as confidential and not disclose to any party (other than employees with a 'need to know' or independent contractors bound by a written agreement of confidentiality no less restrictive than this Section), or use for any reason other than performance under the Agreement, all information and trade secrets related to the business of the other party that is indicated as confidential or which a party should reasonably know to be confidential given the nature of the information and/or the circumstances of its disclosure ("Confidential Information"). You acknowledge that any Square 9 pricing, source code and Documentation are Confidential Information of Square 9. The confidentiality obligations of this Section shall not apply to: (i) information that is publicly known prior to the disclosure or becomes publicly known through no wrongful act of the receiving party; (ii) information that was in lawful possession of the receiving party prior to the disclosure without any agreement of confidentiality restricting its use or disclosure, and was not received as a result of any breach of confidentiality with respect to the other party (iii) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information; or (iv) becomes known by the receiving party from a third party and, to the receiving party's knowledge, is not subject to an obligation of confidentiality to the disclosing party. Square 9 and You acknowledge that monetary remedies may be inadequate to protect their rights with respect to a breach of this Section and agree that, in addition to legal remedies otherwise available, injunctive relief is

an appropriate judicial remedy to protect such rights, and each party hereby waives its right to assert that monetary remedies are adequate.

17.3 Square 9 and You agree that both companies have the right to express their relationship publicly, including the entities' names and the Services involved. This includes the right to republish logos, company names, and software names.

## **18. Privacy & Security**

18.1 Square 9 and third parties on its behalf shall implement security tools and procedures to secure Your Data. These tools include protection such as encryption for communication and user authentication to prevent unauthorized user access or other malicious activities. While such tools and procedures reduce the risk of security breaches, Square 9 cannot guarantee that the Services will be immune from any unlawful interceptions or unauthorized access.

18.2 Square 9 is committed to the privacy of our customers and the security of your data. To this extent, Square 9 performs annual audits of its policies and business practices in accordance with SOC 2 and HIPAA compliance standards.

18.3 To request a copy of the audit reports, please contact [compliance@Square-9.com](mailto:compliance@Square-9.com) To obtain a copy of the Square 9 privacy policy, please visit our website at [www.square-9.com/privacy](http://www.square-9.com/privacy).

## **19. Warranties and Disclaimer of Warranties**

SQUARE 9 REPRESENTS AND WARRANTS THAT: (A) IT WILL PERFORM ALL SERVICES EXERCISING DUE CARE AND IN A GOOD, WORKMANLIKE AND PROFESSIONAL MANNER, (B) IT WILL EMPLOY COMMERCIALY REASONABLE MEASURES TO SCREEN THE SERVICES FOR VIRUSES, TROJAN HORSES, WORMS, TIME BOMBS AND OTHER SOFTWARE ROUTINES OR CODE DESIGNED TO PERMIT



UNAUTHORIZED ACCESS TO, DISRUPT, DISABLE, ERASE, OR OTHERWISE HARM YOUR SOFTWARE, HARDWARE OR DATA, AND (C) IT HAS THE FULL AND UNRESTRICTED RIGHT, POWER AND AUTHORITY TO ENTER INTO THE AGREEMENT AND TO PERFORM ITS OBLIGATIONS IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT. EXCEPT AS OTHER STATED IN THIS SECTION, ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. SQUARE 9 (INCLUDING ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, SUCCESSORS OR ASSIGNEES) AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICES OR THE SQUARE 9 TECHNOLOGY WILL BE UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, OR (B) THE SERVICES AND THE SQUARE 9 TOOLS AND/OR THEIR QUALITY WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS.

## **20. Limitation of Liability**

IN NO EVENT WILL SQUARE 9 AND ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, DISTRIBUTORS, RESELLERS, SUCCESSORS OR ASSIGNEES BE LIABLE FOR LOST REVENUE, PROFITS, BUSINESS OR DATA, OR FOR ANY COSTS OF COVER, INDIRECT, INCIDENTAL, CONSEQUENTIAL PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SQUARE 9 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SQUARE 9'S AND ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, DISTRIBUTORS, RESELLERS, SUCCESSORS AND ASSIGNEES TOTAL AGGREGATE LIABILITY UNDER OR ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS PAID BY YOU FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE

DATE UPON WHICH THE CLAIM FIRST AROSE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT.

## **21. No Assignment**

This Agreement may not be assigned or otherwise transferred by You via sale, merger, change in control, by operation or law or otherwise, without Licensor's prior written consent and any such purported assignment or transfer shall be void.

## **22. Governing Law; Dispute Resolution**

This Agreement shall be exclusively governed by the laws of the State of Connecticut, without regard to the choice or conflicts of law provisions thereof, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service. Except for the right of either party to apply to a court of competent jurisdiction for an injunction or other equitable relief or for the collection of an account stated, any controversy, claim or dispute related to this Agreement will be settled by binding arbitration before a single arbitrator, who is an attorney with experience in the software industry. The arbitration will be conducted under the then-current Commercial Arbitration Rules of the American Arbitration Association. The decision and award of the arbitrator will be final and binding, and the award rendered may be entered in any court having jurisdiction thereof. The arbitration will be held in New Haven, Connecticut. The arbitrator will enforce the terms of the Agreement and will have no authority to award punitive damages, non-compensatory damages, or any damages other than direct damages, or to award direct damages in excess of the limitations and exclusions set forth in this Agreement. In the event that You initiate an arbitration for an alleged breach of this Agreement, and You do not prevail in the arbitration, you agree that Square 9 shall be paid its reasonable attorneys' fees and costs. The existence of the arbitration, the arbitration proceedings, and the outcome of such arbitration will be treated as Confidential Information under this Agreement and will not be disclosed by either party.

## **23. No Waiver; Severability**

The waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder shall not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right. If any one or more of the provisions in this Agreement are determined invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect the other provisions of this Agreement, and this Agreement will be construed as if such invalid, illegal or unenforceable provisions had never been contained in this Agreement; provided, however, if a court finds any provision of this Agreement may be rewritten to be valid, legal and enforceable, the parties agree that such court shall rewrite the provision.

## **24. Force Majeure**

Neither party will be responsible to the other for any delay, failure in performance, loss or damage, unless through the exercise of reasonable diligence, the non-performing party was able to prevent interference with and/or interruption of its performance of this Agreement, due to fire, explosion, power blackout, earthquake, volcanic action, cable cuts by third parties, flood, severe weather elements, strike, embargo, labor disputes, civil or military authority, war, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond their reasonable control, except that You must pay for any Services used. Any such delay or failure shall suspend the Agreement until the force majeure event ceases, provided that such party gives the other party prompt written notice of the failure to perform, the reason for the failure to perform, its expected duration, and its anticipated effect on the ability to perform the obligations and uses its reasonable efforts to limit the resulting delay in its performance. However, if such condition persists for a period of greater than thirty (30) days, the other party may, at its option, terminate this Agreement without penalty. This section does not excuse either party's obligation to take reasonable steps to follow industry disaster recovery procedures.

## **25. Miscellaneous**

No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form, if applicable and where expressly stated that it amends or deviates from the terms of this Agreement) shall add to or vary the terms and conditions of this Agreement. This Agreement, together with any applicable Order Form, comprises the entire Agreement between the parties and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. All terms and provisions of this Agreement which should by their nature survive the termination of this Agreement shall so survive, including without limitation those terms regarding payment of fees, ownership and confidentiality, disclaimer of warranties and limitations of liability. No joint venture, partnership, employment, or agency relationship exists between the parties as a result of this Agreement or use of the Service. Section headings contained in this Agreement are for convenient reference only and shall not in any way affect the meaning or interpretation of this Agreement.

## **26. Revisions**

Square 9 Softworks reserves the right to change this Terms of Service agreement at any time without notice to you and will post any changes to this Terms of Service agreement on this Website as soon as they go into effect. We encourage you to review the Terms of Service regularly for any changes.

## **27. Questions**

If you have questions regarding the terms of service, customer support or the security practices of Square 9 Softworks, please contact us by email: [customerservice@square-9.com](mailto:customerservice@square-9.com) or by mail at:

Square 9 Softworks  
Attn: Customer Success Team

PO Box 15  
Rocky Hill, CT 06067