



STATEMENT OF WORK FOR
MICROSOFT® EXCHANGE MESSAGING SERVICES
TERMS AND CONDITIONS

Capitalized terms not defined in this Attachment will have the meanings set forth in the MSA.

1. SERVICES. “Services” means the Microsoft® Exchange Messaging Services and auxiliary electronic messaging services described in the Order Form. SilverSky inc. (“**Us**” or “**We**”). will provide end users authorized by you to receive Services (each a “**User**”) with individual email boxes (each a “**Seat**”) on the domain name(s) you specify to us. You (Individually or representing the “**Company**”) must be the registered owner of the domain(s) you provide to us. provided that you own the domain name(s). We will provision your specified domain names and Seats on or before the date we first make Services available to you (“**Launch Date**”). Additional domain names and Seats may be established thereafter.

2. ADMINISTRATORS. Prior to the Launch Date, you will appoint up to three administrators, each of whom will have the power to act as your agent, with the authority to make decisions and give notices on your behalf (“**Administrators**”) and whose instructions and representations we may rely on. Administrators’ authority includes, but is not limited to (i) controlling the creation and deletion of Seats and domain names; (ii) managing changes to Seat information (such as changes to User name or password); (iii) serving as our authorized technical contact for the Services; (iv) setting business rules/policies and/or filters on the Services that may filter and/or terminate emails sent to or by Users without delivering them; (v) requesting the restoration or disclosure of content by submitting an Authorization for Disclosure of Information form to us, and (vi) monitoring complaints against Users. At least one Administrator must attend a training session on the Services, which we will provide at no charge. You may replace Administrators at any time upon notice to us.

3. TECHNICAL SUPPORT. You will have sole responsibility for handling technical support inquiries from your Users, unless you have purchased End User support from us. We will have responsibility for responding to inquiries from your Administrators regarding Services. We will respond to inquiries from your Administrators on a 24x7 basis; provided that inquiries (i) must be submitted via toll-free telephone or email in the English language, and (ii) such inquiries will be responded to in English.

4. STORAGE ALLOCATION. Your Administrators may distribute the base storage and additional storage that you may purchase among your public folders and individual Seats in their sole discretion using the administrative functions of the Services; provided that we will invoice you for each Seat at the applicable base storage allocation indicated in the Order Form. When they are approaching or have reached the base storage allocation or the storage capacity designated by your Administrators, we will notify Users that their outbound emails from the Seat will be prohibited and/or their inbound emails be undelivered unless their storage capacity is increased by the reduction of then stored messages or an increase in storage allocated to them.

5. MICROSOFT TERMS. You are bound by, and you will ensure that each of your Users agree to be bound by the Terms and Conditions Regarding Use of Microsoft Software (“**Microsoft Terms**”) attached hereto. If we believe, in good faith, at any time during the term of this Attachment, that you or any of your Users have breached or are not complying with the Microsoft Terms, then you agree that you will cooperate in good faith with us in investigating and remedying such noncompliance. You authorize us to provide such information about the use of the Service by you and your users as Microsoft requires for the purpose of assessing compliance with terms and conditions applicable to the Microsoft products used in the Services or made available through the use of the Services.

6. OUTLOOK® CLIENT LICENSING. If you provide your own licenses to Microsoft Outlook messaging and the collaboration client, you must obtain and maintain the licenses required for the number of Users with Platinum Seats at your sole expense. The licenses must include the right to sublicense to us to operate the Services on your behalf under these terms and conditions. Upon our request, you will provide us with the documentation that, in our sole discretion, is necessary to verify your compliance with your obligations under this Section 6.

7. TERM AND TERMINATION. This Attachment will be in effect during the Initial Term set forth in Order Form and will thereafter automatically renew for a period equal to the Initial Term as provided in Order Form. The fee schedule listed in Order Form will remain in place during the Initial Term; all fees and related pricing will be subject to a standard price adjustment of a maximum of 5% or the percentage increase in the CPI for the preceding year as publicly reported as of the renewal date. Intention not to renew must be provided at least 60 days prior to the beginning of the renewal term. The sections related to Payment Terms, Limitation of Liability, Warranties, Indemnity, Confidentiality and Intellectual Property from the General Terms and Conditions, as provided in the referenced General Terms and Conditions document, will survive the expiration or termination of this Attachment for any reason. Within 10 days after the expiration or termination of this Attachment for any reason, you must pay all undisputed fees accrued and unpaid at the time of termination, and the cancellation fee if applicable.

8. FEES. You will pay us the fees set forth in the Order Form for Services you purchase. We will invoice you for Services monthly in advance and/or arrears according to the Service and our established billing cycle.

9. ADDITIONAL TERMS AND CONDITIONS. In addition to terms and conditions set forth in this Attachment, you are bound by the User Terms and Conditions posted at <https://silversky.com/terms-and-conditions/>. You will ensure that each User agrees to be bound by the User Terms and Conditions before being permitted to use a Seat. You will also ensure that Users comply with the User Terms and Conditions. We may change the User Terms and Conditions or change the manner in which the User Terms and Conditions may be accessed. We will notify your Administrators of



those changes. Without limiting any other remedies, we may suspend or terminate a User's Seat without notice if the User breaches the User Terms and Conditions or the Microsoft Terms.

10. ADDITIONAL INDEMNITY. In addition to your other indemnity obligations under the MSA, you will indemnify us, in the manner described in the MSA, against all loss, cost, damage and expense that we incur as a result of claims in any form by third parties arising from: (i) Users' use of Seats; (ii) your website; (iii) intellectual property infringement claims related to the domain name(s) or content; (iv) unauthorized installation, use, access, copying, reproduction, and/or distribution of any portion of the Microsoft Software Products by Users; and (v) collection of amounts due to us under this Attachment as a result of your breach of the provisions of Sections 5, 6 or 10 of this Attachment.

11. ADDITIONAL DISCLAIMERS. We do not guarantee continuous, uninterrupted, virus-free or secure Services, and we are not liable if you or your Users are unable to access the Services at any specific time. We do not guarantee that we will be able to replace any of your information, content or other data that may be lost, damaged or stolen resulting from use of the Services.



Terms and Conditions Regarding Use of Microsoft Software

This document concerns your use of Microsoft software, which includes computer software provided to you by SilverSky Inc. (“SILVERSKY”) as described below, and may include associated media, printed materials, and “online” or electronic documentation (individually and collectively “SOFTWARE PRODUCTS”). SilverSky does not own the SOFTWARE PRODUCTS and the use thereof is subject to certain rights and limitations of which SilverSky needs to inform you. Your right to use the SOFTWARE PRODUCTS is subject to your agreement with SilverSky, and your understanding of, compliance with and consent to the following terms and conditions, which SilverSky does not have authority to vary, alter or amend.

1. DEFINITIONS.

“Client Software” means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

“Device” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone,” or other electronic device.

“Server Software” means software that provides services or functionality on a computer acting as a server.

“Redistribution Software” means the software described in Paragraph 4 (“Use of Redistribution Software”) below.

- 2. OWNERSHIP OF SOFTWARE PRODUCTS.** The SOFTWARE PRODUCTS are licensed to SilverSky from an affiliate of the Microsoft Corporation (“Microsoft”). All title and intellectual property rights in and to the SOFTWARE PRODUCTS (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the SOFTWARE PRODUCTS) are owned by Microsoft or its suppliers. The SOFTWARE PRODUCTS are protected by copyright laws and international treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the SOFTWARE PRODUCTS does not transfer any ownership of the SOFTWARE PRODUCTS or any intellectual property rights to you.
- 3. USE OF CLIENT SOFTWARE.** You may use the Client Software installed on your Devices by SILVERSKY only in accordance with the instructions, and only in connection with the services, provided to you by SILVERSKY. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during your use of the Client Software.
- 4. USE OF REDISTRIBUTION SOFTWARE.** In connection with the services provided to you by SILVERSKY, you may have access to certain “sample,” “redistributable” and/or software development (“SDK”) software code and tools (individually and collectively “Redistribution Software”). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS (“SPUR”) APPLICABLE TO SILVERSKY, WHICH TERMS MUST BE PROVIDED TO YOU BY SILVERSKY.** Microsoft does not permit you to use any redistribution software unless you expressly agree to and comply with such additional terms, as provided to you by SILVERSKY.
- 5. COPIES.** You may not make any copies of the SOFTWARE PRODUCTS; provided, however, that you may (a) make one (1) copy of Client Software on your Device as expressly authorized by SILVERSKY; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with SILVERSKY, upon notice from SILVERSKY or upon transfer of your Device to another person or entity, whichever first occurs. You may not copy any printed materials accompanying the SOFTWARE PRODUCTS.
- 6. LIMITATIONS ON REVERSE ENGINEERING, DECOMPIATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCTS, except and only to the extent that applicable law, notwithstanding this limitation expressly permits such activity.
- 7. NO RENTAL.** You may not rent, lease, or lend, pledge, or directly or indirectly transfer or distribute the SOFTWARE PRODUCTS to any third party, and you may not permit any third party to have access to and/or use the functionality of the SOFTWARE PRODUCTS except for the sole purpose of accessing the functionality of the SOFTWARE PRODUCTS in the form of software services in accordance with the terms of this document and any agreement between you and SILVERSKY.
- 8. TERMINATION.** Without prejudice to any other rights, SILVERSKY may terminate your rights to use the SOFTWARE PRODUCTS if you fail to comply with these licensing terms. In the event of termination or cancellation of your agreement with SILVERSKY or SILVERSKY’s agreement with Microsoft, you must stop using and/or accessing the SOFTWARE PRODUCTS, and destroy all copies of the SOFTWARE PRODUCTS and all of its component parts.
- 9. NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED BY SILVERSKY AND NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES. You and your Users disclaim, to the extent permitted by applicable law, all warranties by Microsoft and any liability by Microsoft for any damages, whether direct, indirect or consequential, arising from your or your Users’ use of the Services.
- 10. PRODUCT SUPPORT.** Product support for the SOFTWARE PRODUCTS is provided to you by SILVERSKY and is not provided by Microsoft or its affiliates or subsidiaries.
- 11. NOT FAULT TOLERANT.** THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.
- 12. EXPORT RESTRICTIONS.** The SOFTWARE PRODUCTS are of U.S. origin for purposes of U.S. export laws. You agree to comply with all applicable international and national laws that apply to the SOFTWARE PRODUCTS, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>
- 13. LIABILITY FOR BREACH.** In addition to any liability you may have to SILVERSKY, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.
- 14. PROPRIETARY RIGHTS NOTICES.** You must not remove, modify or obscure any Microsoft copyright, trademark or other proprietary rights notices that are accessible to you in copies of the Software Products or through your use of the Services, and you must ensure that your Users do not.



SERVICE LEVEL AGREEMENT FOR MICROSOFT® EXCHANGE MESSAGING SERVICES

This Services Order Attachment shall become a part of and is expressly incorporated into, the MSA between the parties, and forms the entire agreement between us with respect to the subject matter set forth herein. Capitalized terms not defined in this Attachment will have the meanings set forth in the MSA. The following terms and conditions shall apply to the service levels of the Microsoft Exchange Messaging Services (“**Services**”) provided pursuant to the Attachment for Microsoft Exchange Messaging Services *provided however*, that the service level commitments herein will apply only to the currently supported versions of the Services offered through us.

We are committed to providing a scalable and highly available messaging solution through the following service commitment (“**Service Level Agreement**”). We will have the Services Available calculated by the following equation:

$$\text{Availability} = \text{Total Monthly Minutes} - \text{Maintenance Minutes} - \text{Downtime Minutes}$$

Defined Terms. For the purposes of this Service Level Agreement, the following terms shall have the following meanings:

“**Available**” or “**Availability**” means that the Seat(s) we set up specifically to monitor our performance under each access method for the Services (each a “**Test Seat**”), can send and receive messages, subject to the exclusions defined in Downtime Minutes below.

“**Downtime Minutes**” means the total number of minutes that a Test Seat cannot send or receive messages via the specific access method for the Services. The calculation of Downtime Minutes excludes time that a Test Seat is unable to send or receive messages due to any of the following: (i) the Maintenance Minutes; (ii) your or your User’s own Internet service provider; (iii) a Force Majeure event; (iv) any systemic Internet failures; (v) hardware VPN; (vi) encrypted email Services; (vii) any failure in your or your User’s own hardware, software or Network connection, (viii) your or your Users’ bandwidth restrictions, (ix) your, or any of your User’s, acts or omissions, or (x) Microsoft’s failure to resolve a Services-related issue.

“**Mail Delivery Time**” means the time between the receipt of an incoming email message (including from within your Network) containing valid header and address information at our server and the receipt of the same message in the appropriate Seat.

“**Maintenance Minutes**” means the time period during which the Services will not be Available each month so that we can perform routine maintenance to maximize the performance of the Services, up to 240 minutes (4 hours) per calendar month.

“**Network**” means the network outside of our border routers.

“**Total Monthly Minutes**” means the number of days in the month multiplied by 1,440 minutes per day.

Maintenance Notices. We will communicate the date and time that we intend to make the Services un-Available through a global “welcome message” or an email sent to your Administrator at least 48 hours in advance or longer if practical. You understand and agree that there may be instances where we need to interrupt the Services without notice in order to protect the integrity of the Services due to security issues, virus attacks, spam issues or other unforeseen circumstances.

Measurement. We use a proprietary system to measure whether the Services are Available and you agree that this system will be the sole basis for resolution of any dispute that may arise between you and us regarding this Service Level Agreement.

Term of the Service Level Agreement. This Service Level Agreement shall only become applicable to the Services upon the later of (a) completion of the “stabilization period,” as such term is defined in the Statement of Work (if any), or (b) 90 days from the Launch Date.

Service Level Metrics.

Availability. The Service level metric for Availability is 99.999% measured on a monthly basis.



Amount of Service Level Credits.

Availability.

Availability	Amount of Credit for Affected Seats for Affected Month
> 99.9% but < 99.999%	5%
> 96.9% but < 99.9%	7%
> 96.9% but < 97.9%	9%
< 96.9%	11%

Remedy and Procedure. Your sole remedy and the procedure for obtaining your remedy in the event that we fail to meet the Service level metrics set forth above are as follows:

You must notify us in writing at support@silversky.com of both the date the Downtime Minutes occurred and an estimate of the amount of actual Downtime Minutes within five business days of the Downtime Minutes (the “**Claim Notice**”). We will confirm the information provided in the Claim Notice within five business days of receipt of the Claim Notice. If we cannot confirm the Downtime Minutes, then you and we agree to refer the matter to executives at each company for resolution. If we confirm that we are out of compliance with this Service Level Agreement, you will receive the amount of Service Level Credits set forth above for the affected Service level metric and the affected Seats for the affected month, that will be reflected in our invoice to you in the month following our confirmation of the Downtime Minutes.

Except as expressly set forth herein, any remedy you may receive pursuant to this section does not relieve you, or allow a set-off, of any other payment obligations to us under this or any other Attachment.