



## 服务框架协议 Master Services Agreement (“MSA”)

本服务框架协议由 ChannelAdvisor（畅路销）代表其自身及其关联实体和客户于生效日共同签署。本服务框架协议中下划线所界定之字词的含义参见第 **Error! Reference source not found.** 条（“定义”）。鉴于协议与其附件所载之共同约定和条件，以及由客户提交与 ChannelAdvisor（畅路销）接受的工作说明书证明各方希望受法律约束，各方特此约定如下：

THIS MASTER SERVICES AGREEMENT is made and entered into by and between ChannelAdvisor on behalf of itself and its Related Entities, and Customer as of the Effective Date. Capitalized words have the meanings stated in Section 1.0 (DEFINITIONS). In consideration of the mutual covenants and conditions contained in this Agreement together with its Exhibits, and intending to be legally bound as indicated by Customer's submission and ChannelAdvisor's acceptance of an SOW, the parties mutually agree as follows.

### 1.0 定义 DEFINITIONS

“附加服务”系指工作说明书所列的额外的服务。

“Additional Services” means additional Services stated in a SOW.

“协议”系指本服务框架协议的条款与条件，以及所有工作说明书、附件与发票。服务框架协议代替先前称为订购框架协议的文件，凡提及订购框架协议之处，现在都是指服务框架协议。

“Agreement” means the terms and conditions in this MSA, together with all SOWs, Exhibits and invoices. The MSA replaces the document formerly referred to as the Master Subscription Agreement, and any reference to a Master Subscription Agreement now refers to the MSA.

“ASO”或“附加服务订单”系指之前用来指代附加服务签订合同的文档的术语。凡提及附加服务订单之处，现在都是指工作说明书。

“ASO” or “Additional Services Order” is the term previously used to refer to a document to contract for additional Services. Any reference to an ASO now refers to an SOW.

“ChannelAdvisor”或“CA”或“畅路销”系指工作说明书所列的隶属于 ChannelAdvisor（畅路销）的公司实体。

“ChannelAdvisor” or “CA” means the ChannelAdvisor affiliated corporate entity stated in the SOW.

“ChannelAdvisor 平台”系指 ChannelAdvisor（畅路销）专有的、由根据工作说明书的规定单独或共同使用的一系列模块构成的云基础电子商务软件平台。该术语先前指代“CA Complete”。

“ChannelAdvisor Platform” means ChannelAdvisor's proprietary cloud-based e-commerce software platform that is comprised of a series of Modules that may be used independently or together pursuant to SOWs. This term was previously “CA Complete.”

“比较购物模块”是先前使用的术语，系指允许客户管理比较购物引擎的多样化数据服务的 ChannelAdvisor 平台模块。比较购物模块先前提出的特性和功能现在可由数字营销模块提供，凡提及比较购物模块之处都是指数字营销模块。

“Comparison Shopping Module” is the term previously used to refer to the Module of the ChannelAdvisor Platform that allows a Customer to manage multiple data feeds to comparison shopping engines. The features and functionality previously offered through the Comparison Shopping Module are now available through the Digital Marketing Module and any reference to the Comparison Shopping Module refers to the Digital Marketing Module.

“客户”系指工作说明书载明且接受服务的合同缔约方或被许可方。该术语先前指代“公司”。

“Customer” means the entity identified in the SOW as the contracting entity or licensee to receive the Services. This term was previously “Company.”

“数字营销模块”系指 <http://www.channeladvisor.com/terms/digitalmarketing> 进一步介绍的模块，该模块允许客户使用单一界面跨渠道和供应商管理数字营销活动。先前通过比较购物模块、弹性资讯模块、已付款搜索模块和社交模块单独提供的特性和功能现在被集成到单个数字营销模块中，并且凡提及任何这些模块之处都是指数字营销模块。

“Digital Marketing Module” means the Module further described at <http://www.channeladvisor.com/terms/digitalmarketing>, which allows a Customer to manage digital marketing campaigns across multiple channels and providers from a single interface. The features and functionality previously offered separately through the Comparison Shopping Module, the Flex Feed Module, the Paid Search Module and the Social Module are now integrated into a single Digital Marketing Module and any reference to any of those Modules now refers to the Digital Marketing Module.

“文件”系指 ChannelAdvisor（畅路销）提供的用以辅助和明确客户使用服务的所有材料，包括在线的或纸质的图纸、图表、规格、说明、文件、产品介绍、培训手册以及用户手册。

“Documentation” means all materials, including drawings, diagrams, specifications, documentation, product descriptions, training manuals and user manuals that ChannelAdvisor provides (either online or hard copy) to assist and define Customer's use of the Services.

“生效日”系指工作说明书规定的生效日期。

“Effective Date” means the effective date stated in the SOW.

“费用”系指客户应向 ChannelAdvisor（畅路销）支付的作为服务和协议项下许可的对价的款项，以及第三方向 ChannelAdvisor（畅路销）收取的与服务有关的所有收费或费用，包括但不限于应用程序接口（API）费用。

“Fees” means the monies due from Customer to ChannelAdvisor as consideration for the Services and licenses in the Agreement and all charges or fees imposed by third parties on ChannelAdvisor in connection with the Services including without limitation application programming interface (API) fees.

“弹性资讯”系指允许产品数据资讯开发、管理并向不同在线目标发送的 ChannelAdvisor 平台的特性和功能。先前通过弹性资讯模块提供的特性和功能如今都能够从数字营销模块中以基本相同的方式获得，并且凡提及弹性资讯模块之处都是指数字营销模块。



“**Flex Feeds**” means the features and functionality of the ChannelAdvisor Platform that allow product data feeds to be developed, managed, and sent to various online destinations that are not Network Sites. The features and functionality previously offered through the Flex Feed Module are now available in substantially similar form through the Digital Marketing Module and any reference to the Flex Feed Module refers to the Digital Marketing Module.

“**知识产权**”系指所有商业秘密、专利和专利申请、商标、服务标识、商号、版权和所有其他知识产权和专有权利，无论该等权利是已登记或未登记的。

“**Intellectual Property**” means all trade secrets, patents and patent applications, trademarks, service marks, trade names, copyrights and all other intellectual property and proprietary rights whether registered or unregistered.

“**交易平台模块**”系指 <http://www.channeladvisor.com/terms/marketplaces> 进一步介绍的模块，该模块允许客户通过单一用户界面管理其在不同交易平台上的产品（例如 eBay 或亚马逊）。交易平台模块先前被称作“**高端交易平台**”，凡提及**高端交易平台**之处现在都是指“**交易平台**”。

“**Marketplaces Module**” means the Module further described at <http://www.channeladvisor.com/terms/marketplaces>, which allows a Customer to manage its products on multiple marketplaces (for example eBay.com or Amazon.com) from a single user interface. The Marketplaces Module was previously referred to as “Premium Marketplaces” and any reference to Premium Marketplaces now means “Marketplaces.”

“**标识**”系指一方用以识别和区分该方或其第三方许可方的产品或服务与他人的产品或服务的任何文字、符号或图案或其任意组合，包括但不限于商号、商标、服务标识和标志。“**客户标识**”系指任何客户的标识以及包括客户可能向 ChannelAdvisor（畅路销）提供的第三方标识或包含在产品信息中的第三方标识。“**ChannelAdvisor 标识**”系指 ChannelAdvisor（畅路销）的标识。

“**Marks**” means any word, symbol or device, or any combination, used or intended to be used by a party to identify and distinguish the party’s or its third party licensor’s products or services from the products or services of others, including without limitation trade names, trademarks, service marks and logos.

“**Customer Marks**” refer to any Marks of Customer and includes third party marks Customer may provide to ChannelAdvisor or that are incorporated in Product Information. “**ChannelAdvisor Marks**” refers to Marks of ChannelAdvisor.

“**模块**”系指组成 ChannelAdvisor 平台的功能应用，客户通过签署工作说明书获得授权访问 ChannelAdvisor 平台的模块或获得与之相关的服务。

“**Module(s)**” means functional applications that comprise the ChannelAdvisor Platform, which Customer may gain access to or obtain Services for by entering into an SOW.

“**MSO**”或“**模块订阅订单**”系指此前用来授权客户订阅 ChannelAdvisor 平台的文件。如今凡提及**模块订阅订单**之处都是指**工作说明书**。

“**MSO**” or “Module Subscription Order” means the document previously used to grant a Customer a subscription to the ChannelAdvisor Platform. Any reference to an MSO now refers to an SOW.

“**网络站点**”系指 ChannelAdvisor（畅路销）支持的与模块相关的由第三方拥有和运营的网站（例如，eBay、亚马逊、谷歌）。该术语先前指代“**CA 网络站点**”。

“**Network Site**” means those internet websites owned and operated by a third party (for example, eBay, Amazon, Google) that ChannelAdvisor supports and are associated with a Module. This term was previously “CA Network Site.”

“**网络站点账号**”系指客户网络站点的账号。

“**Network Site Account**” means Customer’s account with a Network Site.

“**已付款搜索模块**”是先前使用的术语，该术语系指客户在单一用户界面管理不同搜索引擎的搜索营销活动的 ChannelAdvisor 平台的模块。先前通过**已付款搜索模块**提供的特性和功能如今都能够从**数字营销模块**获得，并且现在凡提及**已付款搜索模块**之处都是指**数字营销模块**。

“**Paid Search Module**” means the term previously used to refer to the Module of the ChannelAdvisor Platform that allows a Customer to manage search marketing campaigns across multiple search engines from a single interface. The features and functionality previously offered through the Paid Search Module are now available through the Digital Marketing Module and any reference to the Paid Search Module now refers to the Digital Marketing Module.

“**产品信息**”系指客户向 ChannelAdvisor（畅路销）提供或上传的、或另行储存在 ChannelAdvisor 平台上的、或客户指示 ChannelAdvisor（畅路销）代表客户收集的所有与客户的产品相关之信息和材料，包括但不限于图片资料、文本、模板、产品说明、价格、**客户标识**以及任何其他相关的信息。该术语先前称为“**材料**”。

“**Product Information**” means all information and materials related to Customer products that Customer provides or uploads to ChannelAdvisor or otherwise stores in the ChannelAdvisor Platform, or that Customer directs ChannelAdvisor to collect on Customer’s behalf, including without limitation image files, text, templates, product descriptions, prices, Customer Marks, URLs and any other related information. This term was previously “Materials.”

“**产品智能模块**”系指 <http://www.channeladvisor.com/terms/productintelligence> 进一步介绍的模块，该模块给客户id提供经销商网站上的客户产品的相关资讯。

“**Product Intelligence Module**” means the Module further described at <http://www.channeladvisor.com/terms/productintelligence> that provides Customer with intelligence regarding Customer products on Reseller websites.

“**关联实体**”系指由一方控制、与该方共同受另一实体控制、或控制该方的独立法律实体，此处的“**控制**”指拥有超过百分之五十的某一实体有表决权的股票或资产。

“**Related Entity**” means a separate legal entity that is controlled by, is under common control with, or controls a party, where “control” means ownership of more than fifty (50%) percent of the voting stock or assets of an entity.

“**代表**”系指一方的关联公司、董事、高管、雇员、被许可的受让人和代理人。

“**Representatives**” collectively means the affiliates, directors, officers, employees, permitted assigns and agents of a party.

“**富媒体模块**”系指 <http://www.channeladvisor.com/terms/rich-media> 进一步介绍的模块，该模块允许客户在其电子商务网站上提供高质量的动态图片。

“**Rich Media Module**” means the Module further described at <http://www.channeladvisor.com/terms/rich-media>, which allows a Customer to offer high quality, dynamic imaging on its e-commerce website.



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“**服务**”系指本服务框架协议和工作说明书所述的由 ChannelAdvisor（畅路销）向客户提供的服务，包括但不限于任何经许可的软件、代码和功能。服务包括但不限于授予登录 ChannelAdvisor 平台模块的自助服务（“**自助服务**”）、管理服务（“**管理服务**”）、启动服务（“**启动服务**”）或工作说明书中所列的其他服务。

“**Services**” means the services to be provided by ChannelAdvisor including without limitation any licensed software, code, or functionality. Services may include without limitation a grant of self-service access to Module(s) of the ChannelAdvisor Platform (“**Self-Service**”), managed services (“**Managed Services**”), launch services (“**Launch Services**”), or other services as described in an SOW.

“**站点费用**”系指系由第三方征收的，向网络站点、弹性资讯地点或其他第三方地点列举、广告、分销、营销、张贴和销售客户的产品、搜索条款或信息而产生的费用。

“**Site Fees**” means fees imposed by third parties and incurred in listing, advertising, distributing, marketing, posting and selling Customer’s products, search terms or information to Network Sites or Flex Feed destinations, or other third-party destinations.

“**社交模块**”是先前使用的术语，系指 <http://www.channeladvisor.com/terms/social> 进一步介绍的允许客户使用单一用户界面在社交网站宣传其产品的模块。社交模块过去提供的特点和功能现在经由数字营销模块提供，凡提及社交模块之处都是指数字营销模块。

“**Social Module**” means the term previously used to refer to the Module further described at <http://www.channeladvisor.com/terms/social>, which allows a Customer to promote its products on social network sites using a single user interface. The features and functionality previously offered through the Social Module are now available through the Digital Marketing Module and any reference to the Social Module refers to the Digital Marketing Module.

“**工作说明书**”或“**SOW**”系指由客户和 ChannelAdvisor（畅路销）签署的工作说明书。“工作说明书”包含模块订阅订单和附加服务订单，凡提及模块订阅订单和附加服务订单之处都是指工作说明书。

“**Statement of Work**” or “**SOW**” means a Statement of Work signed by Customer and ChannelAdvisor. The term “SOW” includes MSOs and ASOs, and any reference to an MSO or ASO refers to an SOW.

“**技术**”系对 ChannelAdvisor 平台、服务、文件、功能、可视界面、URLs 及其组合的统称，技术可以使客户登录 ChannelAdvisor 平台、获得基于服务产生的分析数据、交易信息、所有内容以及工作产品，以及 ChannelAdvisor（畅路销）包含在 ChannelAdvisor 平台或服务或通过 ChannelAdvisor 平台或服务使其可用的任何软件或技术，但明确排除产品信息和客户标识，除非工作说明书另有规定。

“**Technology**” means, collectively, the ChannelAdvisor Platform and Services, Documentation, functionality, visual interfaces, URLs and integrations that enable Customer access to the ChannelAdvisor Platform, analytics, transaction information, all content in, and work product resulting from, the Services, and any software or technology incorporated in or made available by ChannelAdvisor through the ChannelAdvisor Platform or Services, expressly excluding Product Information and Customer Marks unless otherwise stated in an SOW.

“**期限**”系指 6.1 条所述的协议期间以及第 6.1 条定义的初始期限和所有延续期限。

“**Term**” means the period of the Agreement stated in Section 6.1 and includes the Initial Term and all Renewal Terms as defined in Section 6.1.

“**网店放大器模块**”系指 <http://www.channeladvisor.com/terms/webstores/> 进一步介绍的允许客户从 ChannelAdvisor 平台管理其在支持的网店所列商品的自主管理模块。

“**Webstore Amplifier Module**” means the self-managed Module further described at <http://www.channeladvisor.com/terms/webstores/>, which allows a Customer to manage its product listings on a supported webstore from the ChannelAdvisor Platform.

“**购买咨询模块**”系指 <http://www.channeladvisor.com/terms/wheretobuy> 进一步介绍的帮助顾客从网络站点的域名/URL 或客户用以营销或宣传其产品的其他数字领域导航至存有或可能存有客户产品的授权经销商网站。在此说明，本协议中与网络站点和弹性资讯相关的条款不适用于购买咨询模块。

“**Where to Buy Module**” means the Module further described at <http://www.channeladvisor.com/terms/wheretobuy> that assists consumers in navigating from the domain/URL, Network Site or other digital area Customer uses to market or distribute its products, to the websites of authorized resellers that stock or are likely to stock Customer’s products for purchase. For clarity, the terms of this Agreement related to Network Sites and Flex Feeds are not applicable to the Where To Buy Module.

## 2.0 服务/许可的条款/限制

### LICENSE/TERMS OF SERVICE/ RESTRICTIONS

**2.1 服务。**ChannelAdvisor（畅路销）同意尽商业上的合理努力提供工作说明书所列的服务。ChannelAdvisor（畅路销）可以将服务的履行分包，分包商应视为“ChannelAdvisor”的一部分而不视为是本协议项下的第三方。ChannelAdvisor（畅路销）应就 ChannelAdvisor（畅路销）的分包商的行为向客户负责。双方同意客户可以代表客户关联实体签订本协议。客户关联实体可以为服务的接收者。若客户代表客户关联实体签订本协议，并且该客户关联实体的作为或不作为导致 ChannelAdvisor（畅路销）遭受损失或损害，那么客户则需要根据本协议所包含的限制和排除为此种作为或不作为负责。当客户已经根据本协议就客户关联实体所遭受的损失获得赔偿时，ChannelAdvisor（畅路销）将不负责赔偿客户关联实体所遭受的任何损失。客户的承包商可以访问并使用本协议项下的服务；在该种情况下，客户应该：(a) 向 ChannelAdvisor（畅路销）指明承包商；(b) 保证承包商向客户所负有的义务不低于本协议所包含的义务，包括保密义务和使用要求义务；和(c) 就承包商的作为或不作为向 ChannelAdvisor（畅路销）负责。

**Services.** ChannelAdvisor agrees to use commercially reasonable efforts to provide the Services as stated in an SOW. ChannelAdvisor may subcontract the performance of the Services; such subcontractors shall be included in the term “ChannelAdvisor” and shall not be considered third parties under this Agreement. ChannelAdvisor remains responsible to Customer for the actions of ChannelAdvisor’s subcontractors. The parties agree that Customer may enter into this agreement on behalf of Related Entities of Customer. A Customer Related Entity may be the recipient of Services. To the extent that Customer enters into this Agreement on behalf of a Customer Related Entity and the acts or omissions of that Customer Related Entity cause ChannelAdvisor to incur loss and damage, Customer will be responsible for such acts or omissions subject to the limitations and exclusions contained in this Agreement. ChannelAdvisor is not liable to compensate any loss of a Customer Related Entity to the extent that Customer has already recovered such loss under this Agreement. A contractor of Customer may access and use the Services under this Agreement; in that event, Customer: (a) shall identify the contractor to ChannelAdvisor, (b) covenants that the contractor will be bound to Customer by obligations no less stringent than those contained herein this Agreement, including the obligations of confidentiality and usage requirements, and (c) shall be responsible to ChannelAdvisor for the actions and omissions of the contractor.

**2.2 自助服务使用的附加条款。**除本服务框架协议的条款外，附件 A：自助服务附加条款与条件适用于根据适用的工作说明书使用的自助服务。



**Additional Terms for Self-Service Use.** In addition to the provisions of this MSA, Exhibit A: Self-Service Additional Terms and Conditions apply to Self-Service use of any Module pursuant to and as stated in an applicable SOW.

**2.3 知识产权所有权。**客户拥有其产品信息和客户标识。ChannelAdvisor（畅路销）（或其许可方）排他性地拥有技术的所有权利、所有权和权益。客户特此向 ChannelAdvisor（畅路销）转让客户可能通过法律或其他方式获得的技术的所有知识产权。客户不得直接或间接质疑本协议项下 ChannelAdvisor（或其许可方）就技术所有的任何权利。

**Intellectual Property Ownership.** Customer owns its Product Information and Customer Marks. ChannelAdvisor (or its licensors) exclusively owns all right, title and interest in and to the Technology. Customer hereby assigns to ChannelAdvisor all Intellectual Property rights in the Technology that Customer may have acquired by law or otherwise. Customer shall not challenge, directly or indirectly, any of ChannelAdvisor's (or its licensors') rights to the Technology, as stated in the Agreement.

**2.4 限制。**除本协议明示规定外，ChannelAdvisor（畅路销）未授予任何许可或权利，并且本协议未暗示向客户授予技术的任何许可。本协议未授予任何源代码的任何权利，并且客户不得自行或通过任何第三方进行反向工程、反汇编、反编译或其他企图分离有关任何技术的源代码或设计信息，并且不得对技术进行任何修改。客户不得移除或模糊处理附着于任何技术上的任何版权、专利、商标、商业秘密或类似专属财产的布告。客户同意技术的基础结构、顺序、组织和源代码是 ChannelAdvisor（畅路销）的有价商业秘密并应严格保密。客户不得为工作说明书所列以外之目的使用或允许网络站点使用技术。客户不得为产生针对 ChannelAdvisor（畅路销）的知识产权诉求、或开发、帮助开发与技术存在竞争关系的产品或服务之目的使用技术。在此说明，先前在该 2.4 条的(a)-(c)中列明的条款和条件，包括审计权，现在在交易平台模块的网络链接中：<http://www.channeladvisor.com/terms/marketplaces>。

**Restrictions.** Except as expressly stated in the Agreement, no licenses or rights are granted by ChannelAdvisor and nothing in the Agreement implies any license to Customer in the Technology. No rights to any source code are granted and Customer shall not itself, or through any third party, reverse engineer, disassemble, decompile or otherwise attempt to derive source code or design information regarding any Technology and is not permitted to make any modifications to Technology. Customer may not remove or obscure any copyright, patent, trademark, trade secret or similar proprietary notice affixed to any Technology. Customer agrees that the underlying structure, sequence, organization and source code of the Technology are valuable trade secrets of ChannelAdvisor and shall remain strictly confidential. Customer may not use, and may not allow Network Sites to use, the Technology for any purpose not expressly detailed in a SOW. Customer may not use the Technology for the purpose of bringing an Intellectual Property claim against ChannelAdvisor or for the purpose of developing a product or service, or helping another develop a product or service, that is competitive with the Technology. For clarity, the terms and conditions that formerly appeared as subsections (a)-(c) of this Section 2.4, including right to audit, now appear in the URL describing the Marketplaces Module: <http://www.channeladvisor.com/terms/marketplaces>.

**2.5 ChannelAdvisor 平台特性和功能。**如果发生下列情形，ChannelAdvisor（畅路销）可以访问、监控、移除技术中的内容或禁止客户访问技术：(a) 网络站点、购买咨询模块或经销商要求 ChannelAdvisor（畅路销）为之；(b) ChannelAdvisor（畅路销）相信其可能因为客户的产品信息产生责任；(c) 法律、政府命令或其他法律程序要求 ChannelAdvisor（畅路销）为之；(d) 为执行本协议的条款。若 ChannelAdvisor（畅路销）行使本 2.5 条 (a) 至 (d) 项下的权利，ChannelAdvisor（畅路销）应尽合理努力向客户提供有关该等行为的通知和信息。ChannelAdvisor（畅路销）将对 ChannelAdvisor 平台进行定期更新和对模块的自助服务使用提供标准技术支持，且不向客户收取额外的费用。如果 ChannelAdvisor（畅路销）进行该等变更且变更降低了功能并对客户使用模块造成严重不利影响，客户唯一且排他的救济是至少提前 30 天发出书面通知终止该模块的工作说明书。ChannelAdvisor（畅路销）可以为维护之目的不时地临时性暂停 ChannelAdvisor 平台、或任何服务或同时暂停两者。ChannelAdvisor（畅路销）将提前发出维护通知，但 ChannelAdvisor（畅路销）认为发出该通知没有可操作性除外。

**ChannelAdvisor Platform Features and Functionality.** ChannelAdvisor may access, monitor, remove content within, or disable Customer access to the Technology if (a) a Network Site or, in the case of the Where To Buy Module, a Reseller, requests that ChannelAdvisor do so, (b) ChannelAdvisor, in its sole discretion, believes it may incur liability because of Customer Product Information, (c) ChannelAdvisor is required to do so by law, government order or other legal process or (d) to enforce the terms of this Agreement. If ChannelAdvisor exercises its rights under Section 2.5(a)-(d), ChannelAdvisor shall use reasonable efforts to provide notice and information regarding such actions to Customer. At no additional charge to Customer, ChannelAdvisor will provide periodic updates to the ChannelAdvisor Platform and standard technical support for Self-Service use of the Modules. If ChannelAdvisor makes these changes and the changes reduce functionality and materially adversely impact Customer's use of a Module, then Customer's sole and exclusive remedy is to terminate the SOW for that Module by providing at least thirty (30) days prior written notice. ChannelAdvisor may temporarily suspend access to the ChannelAdvisor Platform, or any Services or both, for maintenance from time to time. ChannelAdvisor will give advance notice of maintenance, unless, in ChannelAdvisor's sole discretion, it is impractical to do so.

**2.6 网络站点和弹性资讯的访问和可用性。**ChannelAdvisor（畅路销）不控制且不负责 (a) 通过网络站点或弹性资讯地点获得的产品或服务的质量、安全或合法性；(b) 网络站点或弹性资讯地点内容的真实性或准确性；或(c) 网络站点或弹性资讯地点或其链接的可用性 or 技术能力。ChannelAdvisor（畅路销）不对第三方提供的内容负责，也不对客户给予该等内容所采取的行动负责。ChannelAdvisor（畅路销）可以自行决定不时地改变网络站点的可用性，包括但不限于减少或增加新的网络站点。如果 ChannelAdvisor（畅路销）停止支持某一网络站点但网络站点对客户使用模块具有重大影响，客户唯一且排他的救济是至少提前 30 天发出书面通知终止该模块的工作说明书。

**Network Site and Flex Feed Access and Availability.** ChannelAdvisor does not control, and is not responsible for: the (a) quality, safety or legality of products or services available through Network Sites or Flex Feed destinations, (b) truth or accuracy of the content from Network Sites or Flex Feed destinations or (c) availability or technical capabilities of Network Sites or Flex Feed destinations or links to the Network Sites or Flex Feed destinations. ChannelAdvisor is not responsible for content supplied by third parties, or for actions Customer takes in reliance on that content. ChannelAdvisor has no liability to Customer for failures based on services not provided by ChannelAdvisor. In its sole discretion, ChannelAdvisor may change available Network Sites from time to time including without limitation discontinuing or adding new Network Sites. If ChannelAdvisor stops supporting a Network Site and the Network Site is material to Customer's use of a Module, Customer's sole and exclusive remedy is to terminate the SOW for the affected Module by providing at least thirty (30) days prior written notice.

**2.7 文件许可。**ChannelAdvisor（畅路销）授予客户非排他性许可就客户使用工作说明书所列模块和服务的目的使用文件。ChannelAdvisor（畅路销）和任何适用的第三方保留其各自文件的所有权利。

**Documentation Licenses.** ChannelAdvisor grants Customer the non-exclusive right to use the Documentation solely in conjunction with Customer's use of the Modules and Services as stated in a SOW. ChannelAdvisor and any applicable third parties reserve all rights in their respective Documentation.



channeladvisor®

### 3.0 客户的义务

#### CUSTOMER OBLIGATIONS

**3.1 产品信息。**客户陈述并保证，**产品信息 (a)** 为客户所拥有（或根据本协议的要求经合法授权使用）或为公众所知晓；**(b)** 不存在侮辱、诽谤或淫秽的内容；**(c)** 不会导致任何顾客欺诈、产品责任或违约或造成任何第三方的损害；以及 **(d)** 不含有任何病毒、木马程序、蠕虫病毒、间谍软件、时间炸弹或其他形式的恶意软件或企图妨碍或干扰 ChannelAdvisor 平台的计算机程序路径。根据本协议的条款，**客户** 给予 ChannelAdvisor（畅路销）使用**产品信息**来履行**工作说明书**中详细列明的服务的所有权利。**客户**负责以本地语言提供所有**产品信息**以及买家支持，工作说明书另有明确约定的除外。一经**客户**要求，ChannelAdvisor（畅路销）应向**客户**提供最近的产品信息备份（如有）。

**Product Information.** Customer represents and warrants that the Product Information (a) is owned (or validly licensed for all uses required under the Agreement) by Customer or is in the public domain, (b) does not constitute defamation, libel, or obscenity, (c) does not result in any consumer fraud, product liability, or breach of contract or cause injury to any third party and (d) does not contain any viruses, Trojan horses, worms, spyware, time bombs or other forms of malware or computer programming routines that are intended to interfere with or disrupt the ChannelAdvisor Platform. Subject to the terms of this Agreement, Customer grants ChannelAdvisor all rights to use the Product Information to perform the Services detailed in a SOW. Customer is responsible for providing all Product Information in local languages and for providing buyer support in those local languages, unless expressly stated in an SOW. Upon request from Customer, ChannelAdvisor shall provide Customer's most recent backup of the Product Information to Customer, if available.

**3.2 网络站点账号；网店放大器。**客户负责在网络站点开通和维护网络站点账号并使其保持良好状态，客户同意及遵守网络站点的所有适用的要求，即使工作说明书已经约定 ChannelAdvisor（畅路销）获得有限授权代表客户同意该等条款。客户授权 ChannelAdvisor（畅路销）代表客户通过客户已经创设的网络站点账号访问网络站点，检索并发布为促使使用支持网络站点模块相关的服务。除非工作说明书另有明确规定，客户负责承担所有的站点费用，客户将根据所适用的付款条款直接向网络站点或弹性资讯地点支付站点费用。如果客户能够使用网店放大器模块，客户应负责在网店创设和维护客户的账号。

**Network Site Accounts; Webstore Amplifier.** Customer is responsible for opening and maintaining in good standing all Network Site Accounts with the applicable Network Sites and agreeing to, and complying with, all applicable requirements of the applicable Network Sites, even if ChannelAdvisor has been given a limited agency power to agree to the terms on Customer's behalf as may be expressly stated in an SOW. Customer authorizes ChannelAdvisor, on Customer's behalf, to access the Network Sites with which Customer has established a Network Site Account to retrieve and post information in furtherance of the Services associated with use of each Module that supports the Network Site. Customer is responsible for all Site Fees and unless expressly agreed to otherwise with ChannelAdvisor in an SOW, Customer will pay Site Fees directly to the Network Site or Flex Feed destination in accordance with the applicable payment terms. If Customer has access to the Webstore Amplifier Module, Customer is responsible for setting up and maintaining Customer's account at the webstore.

**3.3 隐私/安全。**客户必须制定并执行符合所有适用的法律、法规的隐私政策，包括但不限于在客户向国际交易平台进行销售的情况下或有其他应适用相关法律的情况下根据欧盟和其他非美国的适用法律和法规处理所有个人信息。客户必须保护买家信息，除根据客户的隐私政策外不得披露买家信息。客户必须根据适用的法律以及至少与行业标准相同的严格程度建立安全流程以保护个人信息，但不得低于合理的注意程度。客户承认，作为 ChannelAdvisor（畅路销）提供服务的结果，客户及其买家的个人信息或其他信息会向美国、欧洲国家或其他非美国管辖区域传输。在根据本协议访问 ChannelAdvisor 平台的过程中，客户必须立即向 ChannelAdvisor（畅路销）报告任何违反安全的事项。客户对由于客户访问或登录 ChannelAdvisor 平台证书而产生的任何违反安全的事项承担责任。若向客户提供服务的条款适用《欧盟数据保护法》，则双方将遵守 <http://www.channeladvisor.com/terms/dpa> 中列明的数据保护协议条款。为了本 3.3 条款之目的，适用的数据保护法具有上述链接中对该术语所做定义。

**Privacy/Security.** Customer must have and enforce a privacy policy that complies with all applicable laws, rules and regulations including without limitation the treatment of all personal information in accordance with European Union and other non-U.S. applicable laws and governing authorities to the extent that Customer sells into international marketplaces or otherwise is subject to the laws of those authorities. Customer must secure buyer information and not allow buyer information to be disclosed except in accordance with Customer's privacy policy. Customer must establish security processes to protect personal information in accordance with applicable law and at least as restrictive as industry standards, but no less than reasonable care. Customer acknowledges that Customer's information and Customer's buyers' information (personal or otherwise) may be transmitted to the United States or European Union and other non-U.S. jurisdictions as a result of ChannelAdvisor providing the Services. In accessing the ChannelAdvisor Platform as permitted under the Agreement, Customer must report any security breaches promptly to ChannelAdvisor. Customer is responsible for any breaches of security that occur through Customer's access or login credentials of the ChannelAdvisor Platform. In cases in which the Data Protection Law of the European Union applies to the provision of Services to Customer, the parties will comply with the data protection agreement terms located at: <http://www.channeladvisor.com/terms/dpa>. For the purposes of this Section 3.3, applicable Data Protection Law has the meaning attributed to this term at the foregoing URL.

**3.4 遵守法律。**客户向 ChannelAdvisor（畅路销）承诺在期限内的所有时间将遵守所有适用的和不时修订的有关客户履行本协议项下义务以及客户进行模块相关活动和访问 ChannelAdvisor 平台相关活动有关的法律和法规，包括但不限于规制在线货物销售和服务的法律法规、以及反贿赂和反腐败的法律法规，包括但不限于《2010 年英国贿赂法案》和《1997 年美国海外反腐败法案》，以及美国的出口管制、贸易制裁和经济禁运。

**Compliance with Laws.** Customer covenants to ChannelAdvisor that at all times during the Term it complies with all applicable laws, rules and regulations and codes as updated from time to time related to Customer's performance of its obligations under the Agreement and activities that Customer undertakes in connection with its use of the Modules and accessing the ChannelAdvisor Platform including without limitation those governing the online sale of goods and services, those governing anti-bribery and anti-corruption, including without limitation the U.K. Bribery Act 2010 and the U.S. Foreign Corrupt Practices Act of 1977 (FCPA), respectively, and U.S. export controls and trade sanctions and economic embargoes.

**3.5 垃圾电子邮件/禁止行为。**客户禁止使用或利用 ChannelAdvisor 平台、任何模块或任何服务向任何人或实体发送垃圾电子邮件或信息。就通过 ChannelAdvisor 平台或任何服务发送的但不违反本协议的电子邮件，客户必须给予买家和顾客要求客户停止发送买家和顾客之前选择接收的电子邮件的权利。客户向 ChannelAdvisor（畅路销）承诺客户不会从事本条款或本协议其他部分禁止的行为。如果客户为本条款或本协议其他部分禁止的目的使用模块，除所有法律或衡平救济外，ChannelAdvisor（畅路销）可以立即终止或中止协议、服务或两者。

**Spam/Unsolicited Email/Prohibited Activities.** Customer is prohibited from using for, or involving the ChannelAdvisor Platform or any Module or any Service with, spamming or sending any unsolicited emails or information to any person or entity. For emails that do not violate the Agreement that are sent through the ChannelAdvisor Platform or any Service, Customer must provide a way for buyers and consumers to request that Customer stop sending emails that a buyer or consumer previously opted to receive. Customer covenants to ChannelAdvisor that Customer will not engage in the activities prohibited in this Section or any other portion of this Agreement. In addition to all remedies available at law or in equity, ChannelAdvisor may immediately terminate or suspend the Agreement or the Services or both if Customer uses a Module for purposes prohibited in this Section or any other portion of this Agreement.



**3.6 客户协助。**客户应尽商业上的合理努力采取所有的措施并制定、签署和交付所有为 ChannelAdvisor (畅路销) 提供服务而需要履行或提供的所有文件、数据和访问证书。

**Customer Assistance.** Customer shall use commercially reasonable efforts to perform all acts and to make, execute and deliver all documents, data, and access credentials that Customer needs to perform or provide in order for ChannelAdvisor to provide the Services.

**4.0 付款。**作为本协议授予之服务和/或许可的对价, 客户同意根据本协议的付款条款支付费用。客户使用工作说明书规定的服务范围之外的 ChannelAdvisor 平台特性或功能会需要支付额外的费用。如果 ChannelAdvisor (畅路销) 未在到期日收到全部费用, ChannelAdvisor (畅路销) 可以禁止客户访问工作说明书项下的技术且不承担任何责任。除另有说明外, 客户应使用自动银行汇票以美元支付。除工作说明书另有规定外, 所有发票将于开具发票之日起 30 天后到期。如果客户有任何延期付款, 应从初始到期日起直至 ChannelAdvisor (畅路销) 收到全部款项为止, 按每月 1.5% 或法律允许的最高利率支付额外的费用, 以较低的利率为准。客户应向支付 ChannelAdvisor (畅路销) 为收取费用而产生的所有开支 (包括合理的律师费)。到期日未产生任何争议的发票视为接受。在签署工作说明书之后但在 ChannelAdvisor (畅路销) 开始任何服务之前, 客户应按工作说明书所列金额向 ChannelAdvisor (畅路销) 支付一笔保证金。该保证金应由 ChannelAdvisor (畅路销) 保管, 作为客户及时、完全履行本协议以及所有工作说明书项下义务 (包括但不限于客户向 ChannelAdvisor (畅路销) 支付所有到期应付款项) 的无息担保。尽管本协议或工作说明书有其他约定, 如果客户未及时和完全履行本协议或任何工作说明书项下的到期义务, 包括但不限于未及时向 ChannelAdvisor (畅路销) 任何到期款项, 除 ChannelAdvisor (畅路销) 根据本协议和工作说明书可获得的所有法律或衡平的其他救济外, ChannelAdvisor (畅路销) 可以选择使用全部或部分客户的履行本协议或工作说明书项下义务的保证金, 并且在收到 ChannelAdvisor (畅路销) 通知后 10 天内, 客户应按照工作说明书规定的付款方式全额补足工作说明书规定的保证金金额。如果客户已经履行了其在本协议和工作说明书项下所有对 ChannelAdvisor (畅路销) 的义务, 在本协议和所有工作说明书的期限到期后, ChannelAdvisor (畅路销) 将在减去根据本协议或任何工作说明书归于 ChannelAdvisor (畅路销) 的所有金额后, 向客户返还其届时持有的保证金。ChannelAdvisor (畅路销) 不应为该保证金支付利息。除本协议项下的费用外, 客户同意支付与本协议涵盖活动相关的所有适用税费, 包括但不限于任何销售税、使用税或从价税, 并排除基于 ChannelAdvisor (畅路销) 净收入产生的税费。客户应负责如下事项: (a) 向 ChannelAdvisor (畅路销) 确认客户访问 ChannelAdvisor 平台或服务的主要纳税地; 以及 (b) 向地方、州、国家和国际税务机关缴纳所有适用的税费。如果客户未缴纳税款, 客户应补偿向 ChannelAdvisor (畅路销) 征收的任何税费、利息或罚金。如果适用的法律要求, ChannelAdvisor (畅路销) 将为客户的利益收取因客户使用 ChannelAdvisor 平台或服务而产生的地方、州、国家或国际税费, 并按照客户记载的账单地址向所有适用的税务机关缴纳税费。

**PAYMENT.** In exchange for the Services and/or the licenses granted in the Agreement, Customer agrees to pay the Fees in accordance with the payment terms of the Agreement. Additional Fees may apply to Customer's use of features or functionality of the ChannelAdvisor Platform outside the scope of Services described in an applicable SOW. If ChannelAdvisor does not receive full payment for Fees by the due date, it may disable Customer access to the Technology under all SOWs without liability to ChannelAdvisor. Customer shall make payments in U.S. Dollars by automated bank draft, unless the parties otherwise agree. Except as otherwise provided in the SOW, all invoices shall be due net thirty (30) days from the invoice date. Any late payments shall bear an additional charge of 1½% per month, or the maximum rate permitted by law, whichever is less, from the original due date until ChannelAdvisor receives payment in full. Customer shall pay all costs of collection (including reasonable attorney's fees) that ChannelAdvisor incurs to recover Fees. Any invoice not disputed by the due date is deemed accepted. Upon signing an SOW but before ChannelAdvisor commences any Services, Customer shall pay to ChannelAdvisor a deposit in the amount stated in the applicable SOW. The deposit shall be held by ChannelAdvisor as non-interest-bearing security for Customer's prompt, full performance of all of its obligations under this Agreement and all SOWs, including without limitation payment of all amounts due from Customer to ChannelAdvisor. Notwithstanding any other provision of this Agreement or an SOW, if Customer fails to promptly and fully perform any obligation under the Agreement or any SOW when due, including without limitation failing to pay when due any amount owing to ChannelAdvisor, in addition to all other remedies available to ChannelAdvisor under this Agreement, an SOW, at law and in equity, ChannelAdvisor may elect to use or apply the whole or any part of the deposit for the performance of Customer's obligations under the Agreement or any SOW, and within ten (10) days of notice from ChannelAdvisor, Customer shall pay to ChannelAdvisor in accordance with the payment method stated in the SOW the amount required to restore the full amount of the deposit stated in the applicable SOW. If Customer has fulfilled all of its obligations to ChannelAdvisor under all Agreements and SOWs, following expiration of the Term of the Agreement and all SOWs, ChannelAdvisor will refund to Customer the amount of deposit then held by ChannelAdvisor, less all amounts owing to ChannelAdvisor under the Agreement or any SOW. ChannelAdvisor is not required to pay interest on the deposit. In addition to the Fees under this Agreement, Customer agrees to pay all applicable taxes related to the activities contemplated by this Agreement, including without limitation any sales, use or ad valorem taxes, and excluding taxes based upon ChannelAdvisor's net income. Customer is responsible for: (a) identifying to ChannelAdvisor its main tax location where Customer will access the ChannelAdvisor Platform or Service, and (b) remitting all applicable taxes to the appropriate local, state, national and international authorities. Customer shall reimburse ChannelAdvisor for any taxes, interest and penalties levied against ChannelAdvisor if Customer fails to remit. Where obligated by applicable law, ChannelAdvisor will, for the benefit of Customer, collect all applicable local, state, national or international taxes that are owed as a result of Customer's use of the ChannelAdvisor Platform or Service, and remit collected taxes to the appropriate taxing authority based on Customer's main billing address of record.

**5.0 标识许可。**各方特此授予另一方有限的、非排他的、不可转让的、不可让与的以及不可转授权的使用其与服务有关的标识的许可。标识应按原样复制, 并且所有标识的使用应受限于许可方不时修订的使用规则。标识的被许可方承认并同意许可方标识的全部权利、所有权和权益由许可方、许可方的许可方、或第三方独家拥有, 并且应为许可方之利益使用许可方的标识。被许可方不得对许可方的标识或该等标识的任何元素、衍生、改编、变化或名称主张任何知识产权。被许可方不得就任何许可方标识的有效性或许可方对该标识的所有权提出争议。被许可方不得在任何国家或地区采纳、使用、注册或申请注册任何许可方标识或与任何许可方标识混淆相似的任何文字、符号或图案或其组合, 无论是作为公司名称、商标、或其他产地标记或域名。被许可方不得以任何形式变更许可方标识或以可能淡化、减少、或其他损害许可方在标识中权利或商誉的方式使用许可方标识。被许可方使用许可方标识的行为不得以任何方式暗示许可方对被许可方云服务和产品的赞助或背书, 许可方明示授权的除外。在此说明, 先前列于第 5 条的客户的付款义务现在列于本服务框架协议的第 4 条。

**MARK LICENSES.** Each party hereby grants to the other a limited, non-exclusive, non-assignable, non-transferable license, without right to sublicense, to use its Marks in connection with the Services. Marks must be reproduced as exact copies and all use of the Marks is subject to the licensor's usage guidelines as revised from time to time and available from the licensor. The licensee of the Marks acknowledges and agrees that all right, title and interest in the licensor's Marks is exclusively owned by the licensor, its licensors, or a third party and that all use of licensor Marks inures to the benefit of licensor. Licensee shall not assert any Intellectual Property rights in the licensor Marks or in any element, derivation, adaptation, variation or name thereof. Licensee shall not contest the validity of, or licensor's ownership of, any of the licensor Marks. Licensee shall not, in any jurisdiction, adopt, use, or register, or apply for registration of, whether as a corporate name, trademark, service mark or other indication of origin, or as a domain name, any licensor Marks, or any word, symbol or device, or any combination confusingly similar to any of the licensor Marks. Licensee may not alter licensor Marks in any manner, or use licensor Marks in any manner that may dilute, diminish, or otherwise damage licensor's rights and goodwill in its Marks. Licensee may not use licensor Marks in any manner that implies sponsorship or endorsement by licensor of licensee services and products other than those expressly authorized by licensor. For clarity, the terms and conditions governing Customer's payment obligations that formerly appeared in this Section 5 now appear in Section 4 of the MSA.



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## 6.0 期限和终止

### TERM AND TERMINATION

**6.1 期限。**本协议自生效日起开始生效，并在最后到期的工作说明书的期间内持续有效（“期限”），前提是客户应支付费用并严格遵守本协议的条款。本服务框架协议中的期限应自动延长以覆盖工作说明书所述的最后期限。

**Term.** This Agreement is effective as of the Effective Date and continues in full force and effect for the period stated in the last expiring SOW (“Term”), subject to Customer’s payment of Fees and Customer’s strict compliance with the terms of this Agreement. The Term of this MSA is automatically extended to cover the latest Term stated in an SOW.

**6.2 终止。**发生下列情形，除期限到期终止外，一方可以向另一方发出书面通知终止本协议：(a) 如果一方实质性违反协议，且该违约能够得到补救，但违约方未在书面违约通知后 30 天内纠正违约行为（但是，如果违约方尽力纠正违约行为但仍无法在 30 天内纠正违约行为，则上述终止不适用），则守约方可以终止本协议；(b) 如果发生付款违约，则 ChannelAdvisor（畅路销）可以终止本协议；(c) ChannelAdvisor（畅路销）可以无需任何理由，至少提前 30 天发出书面通知后终止本协议且无需承担任何责任；(d) 根据在工作说明书中可能有的相关陈述；以及(e) 在法律允许的范围内，如果一方为其债权人的利益进行一般性的转让，或提出自愿破产申请，或就其业务或财产允许或批准管理人的任命，成为破产诉讼的主体且该破产诉讼在 60 天内未消除，或已经清算或清偿；如果发生任何上述事项，受影响的一方应立即通知另一方。客户在终止日后继续使用 ChannelAdvisor 平台应遵守本协议的条款和条件。

**Termination.** This Agreement may be terminated other than at the end of a Term upon written notice to the other party as follows: (a) by a party if the other party has materially breached the Agreement and, where the breach is capable of cure, the breaching party has not cured the breach within thirty (30) days after written notice of the breach (provided, however, that where the breaching party is diligently pursuing the cure but cannot cure within thirty (30) days, the foregoing will not apply), (b) by ChannelAdvisor in the event of a payment default, (c) by ChannelAdvisor, upon at least thirty (30) days prior written notice without cause or liability, (d) as may be stated in an SOW, and (e) by a party, to the extent permitted by law, if the other party makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to a petition in bankruptcy not dismissed in sixty (60) days, or has wound up or liquidated; if any of the above events occurs, the affected party shall immediately notify the other party. Customer’s continued use of the ChannelAdvisor Platform beyond the termination date shall be pursuant to the terms and conditions of this Agreement.

**6.3 到期或终止的效力。**本协议到期或终止后，根据本协议授予的许可立即终止。下列条款在本协议到期或终止后继续有效：第 **Error! Reference source not found.** 条、第 2.3 条、第 3.3 条、第 4.0 条（仅在所欠拖欠费用范围内）、第 6.3 条、第 7.0 条至第 11.0 条以及任何其他据其性质将在协议终止后合理继续有效的条款或部分条款。

**Effect of Expiration or Termination.** Upon expiration or termination of this Agreement, the licenses granted under the Agreement terminate immediately. The following Sections survive its expiration or termination: 1.0, 2.3, 3.3, 4.0 (solely to the extent that Fees are owed), 6.3 and 7.0 through 11.0 and any other provision or partial provision which by its nature would reasonably survive the termination of the Agreement.

**7.0 ChannelAdvisor 的免责声明。**ChannelAdvisor（畅路销）对技术或 ChannelAdvisor 标识未做出任何保证（无论明示的、暗示的或法定的）。ChannelAdvisor（畅路销）对技术和 ChannelAdvisor 标识不承担任何及全部保证，包括但不限于侵权保证、适销性或针对任何特定目的的通用性保证以及技术不间断、无瑕疵或无错误运行的保证。ChannelAdvisor（畅路销）对技术适用于特定市场的本土化不做陈述与保证，包括但不限于本地语言、本地税务、付款或运输支持。ChannelAdvisor（畅路销）对通过任何模块、网络站点、弹性资讯地点或第三方界面获得的任何新内容的准确性、及时性、真实性、完整性和可靠性不做保证。

**DISCLAIMER OF WARRANTIES BY CHANNELADVISOR.** CHANNELADVISOR MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE TECHNOLOGY OR CHANNELADVISOR MARKS. CHANNELADVISOR DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO THE TECHNOLOGY AND CHANNELADVISOR MARKS INCLUDING WITHOUT LIMITATION ANY WARRANTIES AGAINST INFRINGEMENT AND IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES THAT THE TECHNOLOGY WILL OPERATE UNINTERRUPTED, DEFECT-FREE OR ERROR-FREE. CHANNELADVISOR MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE TECHNOLOGY’S LOCALIZATION TO A PARTICULAR MARKET INCLUDING WITHOUT LIMITATION LOCAL LANGUAGE, LOCAL SUPPORT OF TAXES, PAYMENT OR SHIPPING CARRIERS. CHANNELADVISOR MAKES NO WARRANTY REGARDING THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY CONTENT OBTAINED THROUGH ANY MODULE OR FROM ANY NETWORK SITE, FLEX FEED DESTINATION, OR THIRD-PARTY INTERFACE.

## 8.0 补偿

### INDEMNIFICATION

**8.1 客户的补偿。**根据第 8.3 条（补偿要求）的规定，客户同意对 ChannelAdvisor（畅路销）及其代表就 ChannelAdvisor（畅路销）由于第三方向对 ChannelAdvisor（畅路销）及其代表提起的诉求或主张（“索赔”）而产生的任何种类或性质的任何责任、行为、诉讼、诉求、要求、和解、判决、损害、损失、责任或开销（包括合理的律师费）提供补偿，为 ChannelAdvisor（畅路销）及其代表辩护并使其免受损害，该等第三方的诉求或主张系由以下事项造成：(a) 客户未遵守或违反本协议第 2.4 条以及第 3.0 条的规定；(b) 客户使用服务列举、供应或销售的客户产品，包括但不限于知识产权侵权诉讼和产品责任诉讼、客户标识、广告内容以及产品信息；(c) 客户或其员工、代理的与客户履行本协议项下的义务相关的任何疏忽大意或不当行为；以及(d) 与买家信息（个人或企业）或买家资金相关的侵占或欺诈。

**Customer’s Indemnification.** Subject to Section 8.3 (Requirements of Indemnification), Customer indemnifies, defends and holds harmless ChannelAdvisor and its Representatives from and against all obligations, actions, suits, claims, demands, settlements, judgments, damages, losses, liabilities, costs and expenses (including reasonable attorney’s fees), of whatever type or nature incurred by ChannelAdvisor by reason of a third party claim or assertion (“Claim”) brought against ChannelAdvisor and its Representatives arising out of or related to: (a) Customer’s failure to comply with or breach of Sections 2.4 and 3.0 of this Agreement, (b) Customer products listed, supplied or sold using the Services including without limitation Intellectual Property infringement claims and product liability claims, Customer Marks, ad content, and Product Information, (c) any gross negligence or willful misconduct of Customer or its employees or agents related to Customer’s performance of its obligations under the Agreement, and (d) misappropriation or fraud related to buyer information (personal or otherwise) or buyer funds.

**8.2 ChannelAdvisor 的补偿。**根据第 8.3 条（补偿要求）之规定，ChannelAdvisor（畅路销）同意对客户及其代表就针对客户及其代表提起的索赔提供补偿，为客户及其代表辩护并使其免受损害，该等索赔系由以下事项造成：(a) 客户授权使用 ChannelAdvisor 平台侵犯了服务提供所在地任何第三方的知识产权；(b) 客户授权使用 ChannelAdvisor 标识（不是第三方许可方的标识）侵犯美国商标的诉讼；以及(c) ChannelAdvisor（畅路销）或其员工或代理的与 ChannelAdvisor（畅路销）履行本协议项下的义务相关的任何疏忽大意或不当行为。

**ChannelAdvisor Indemnification.** Subject to Section 8.3 (Requirements of Indemnification), ChannelAdvisor indemnifies, defends and holds harmless Customer and its Representatives from and against all Claims brought against Customer and its Representatives, arising out of or related to: (a) Customer’s authorized use of the ChannelAdvisor Platform infringing on the Intellectual Property rights of a third party in the territory in which Services are



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provided, (b) Customer's authorized use of ChannelAdvisor Marks (not a third party licensor's marks) infringe upon a U.S. trademark and (c) any gross negligence or willful misconduct of ChannelAdvisor or its employees or agents related to ChannelAdvisor's performance of its obligations under the Agreement.

**8.3 补偿要求。**为使补偿方履行补偿责任，受偿方应及时向补偿方发出有关任何索赔的书面通知，及时给予补偿方任何索赔的辩护与和解的控制权（补偿方承担费用且由补偿方选择律师），并且完全配合补偿方（经补偿方要求并由补偿方承担费用）就索赔进行的辩护或和解，包括但不限于提供为进行辩护而必要的任何信息或材料，以及采取所有合理的商业措施来减轻损害。补偿方仅就有管辖权的法院做出的终局性的、不可上诉的裁决确定的损害金额或以和解方式支付的金额向受偿方承担责任。如果受偿方达成的任何和解未经补偿方事先书面同意（且补偿方有权自行决定拒绝同意该等和解），补偿方对此不承担任何责任。如果和解要求受偿方承认错误或由受偿方付款，未经受偿方事先书面同意，补偿方不得签署任何该等索赔的和解或妥协。

**Requirements of Indemnification.** In order for the indemnification obligations of the indemnifying parties to apply, the indemnified parties must promptly provide the indemnifying party with notice in writing of any Claim, promptly tender the control of the defense and settlement of any Claim to the indemnifying party (at the indemnifying party's expense and with indemnifying party's choice of counsel), cooperate fully with the indemnifying party (at the indemnifying party's request and expense) in defending or settling the Claim including without limitation providing any information or materials necessary for the defense, and take all commercially reasonable steps to mitigate damages. The indemnifying party shall only be liable to the indemnified party for the amount of damages as determined in a final, non-appealable order of a court of competent jurisdiction or paid by way of settlement, but the indemnifying party shall have no liability for any settlement made by an indemnified party without the indemnifying party's prior written consent, which may be withheld in the indemnifying party's sole discretion. The indemnifying party will not enter into any settlement or compromise of any Claim without the indemnified party's prior consent if the settlement would require admission of fault or payment by the indemnified party.

**8.4 除外情况和侵权救济。**如果 ChannelAdvisor（畅路销）确定 ChannelAdvisor 平台的使用侵犯了任何第三方的权利，ChannelAdvisor（畅路销）可以自行决定并自行承担费用采取下列行为：**(a)** 为客户取得继续许可 ChannelAdvisor 平台的权利；**(b)** 修改 ChannelAdvisor 平台使 ChannelAdvisor 平台的使用不会侵犯第三方的权利；**(c)** 向客户发出通知终止本协议并在终止日之后按比例返还客户已提前支付的许可使用 ChannelAdvisor 平台费用的剩余部分。ChannelAdvisor（畅路销）就由于以下原因产生的任何侵权诉讼不承担任何责任或义务：**(i)** 客户修改 ChannelAdvisor（畅路销）提供的事项、软件或服务或 ChannelAdvisor（畅路销）应客户要求进行的修改；**(ii)** 未在本协议规定的应用或环境中使用 ChannelAdvisor 平台；**(iii)** 客户未经授权使用 ChannelAdvisor 平台；**(iv)** ChannelAdvisor（畅路销）根据客户的规格参数或指导做出的行为；或**(v)** 将 ChannelAdvisor 平台与任何非 ChannelAdvisor（畅路销）提供的第三方产品组合、共同运行或共同使用。客户同意对 ChannelAdvisor（畅路销）及其代表就 ChannelAdvisor（畅路销）由于本条款（i）到（v）所述的情形而产生或与之有关的任何种类或性质的任何索赔提供补偿，为 ChannelAdvisor（畅路销）及其代表辩护并使其免受损害。第 8.1 条至 8.4 条所述的救济是客户就 ChannelAdvisor（畅路销）侵害第三方知识产权权利拥有的**唯一且排他的**救济。

**Exclusions and Infringement Remedies.** Upon ChannelAdvisor's sole determination that the use of the ChannelAdvisor Platform infringes upon the rights of any third party, ChannelAdvisor may, at its sole discretion and own cost and expense, either: (a) procure the right for Customer to continue to license the ChannelAdvisor Platform, (b) modify the ChannelAdvisor Platform in such a way that the use thereof does not infringe on the rights of third parties, or (c) terminate this Agreement by notice to Customer and refund any Fees paid in advance for the license to use the ChannelAdvisor Platform remaining (on a prorata basis) after the termination date. ChannelAdvisor shall have no liability or obligation with respect to any infringement claim if the infringement is caused by: (i) a modification made by Customer to an item, software, or Service supplied by ChannelAdvisor or a modification made by ChannelAdvisor at Customer's request, (ii) use of the ChannelAdvisor Platform in an application or environment other than as intended under this Agreement, (iii) Customer's unauthorized use of the ChannelAdvisor Platform, (iv) ChannelAdvisor acting in accordance with Customer's specifications or guidelines, or (v) the combination, operation or use of the ChannelAdvisor Platform with other third party product(s) not supplied by ChannelAdvisor. Customer indemnifies, defends and holds harmless ChannelAdvisor and its Representatives from and against all Claims arising out of or related to any of the circumstances stated in this Section 8.4(i)-(v). The remedies stated in this Section 8.1-8.4 are the SOLE AND EXCLUSIVE remedies of Customer for the infringement of third party Intellectual Property rights by ChannelAdvisor.

**9.0 责任限制。**ChannelAdvisor（畅路销）无须为基于客户使用 ChannelAdvisor 平台、任何模块（或其他授权软件）或服务进行交易之人的交易失败向客户或任何第三方承担任何责任。客户对其选择合作展开业务的对象以及同该对象和网络站点和弹性资讯地点之间协议的条款和条件自行承担全部责任。ChannelAdvisor（畅路销）对客户提供的产品或服务的质量与可用性、任何买家的付款能力、任何第三方遵守交易条款、或买家或客户通过服务获得或销售的产品或服务产生的或据称已经产生的任何伤害、损失或损害不承担责任。就与本协议或任何适用的工作说明书有关的任何类型的任何诉因所导致的任何利润损失、信息丢失或任何形式的间接的、特殊的、或然的、惩罚性的或间接损害，任何一方对另一方不承担任何责任，无论是基于合同违约或侵权（包括疏忽大意）或其他原因造成的损害，并且无论另一方是否已经提醒该等损害产生的可能性。ChannelAdvisor（畅路销）在本协议或适用的工作说明书项下承担的责任总额不超过在提起诉求之日前 12 个月的期间内客户在工作说明书项下支付的由诉求导致的金额。如果适用的法律不允许对某项诉因相关的损害做出免责声明，该限制为法律允许的最大程度。

**LIABILITY LIMITATION.** CHANNELADVISOR IS NOT LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR THE FAILURE OF A PERSON TO ENTER INTO A TRANSACTION BY MEANS OF CUSTOMER'S USE OF THE CHANNELADVISOR PLATFORM, ANY MODULE (OR OTHER SOFTWARE LICENSED) OR THE SERVICES. CUSTOMER IS SOLELY RESPONSIBLE FOR ALL SELECTION OF PARTIES WITH WHOM CUSTOMER DOES BUSINESS, AND FOR TERMS AND CONDITIONS OF CUSTOMER'S AGREEMENTS WITH THOSE PARTIES AND WITH NETWORK SITES AND FLEX FEED DESTINATIONS. CHANNELADVISOR HAS NO RESPONSIBILITY FOR THE QUALITY OR AVAILABILITY OF GOODS OR SERVICES PROVIDED BY CUSTOMER, ANY BUYER'S ABILITY TO PAY, ANY THIRD PARTY'S COMPLIANCE WITH THE TERMS OF A TRANSACTION, OR FOR ANY INJURY, LOSS OR DAMAGE CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY THE GOODS OR SERVICES OBTAINED BY A BUYER OR SOLD BY CUSTOMER THROUGH USE OF THE SERVICES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOSS OF DATA, OR ANY FORM OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER FROM ANY CAUSES OF ACTION OF ANY KIND WITH RESPECT TO THIS AGREEMENT OR ANY APPLICABLE LAW, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. CHANNELADVISOR'S AGGREGATE LIABILITY UNDER THIS AGREEMENT OR APPLICABLE LAW WILL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER UNDER THE APPLICABLE LAW GIVING RISE TO THE CLAIM DURING THE TWELVE MONTH PERIOD IMMEDIATELY BEFORE THE DATE THE CLAIM AROSE. IF APPLICABLE LAW DOES NOT PERMIT THE DISCLAIMER OF CERTAIN DAMAGES RELATED TO A PARTICULAR CAUSE OF ACTION, THEN THIS LIMITATION SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

**10.0 保密条款。**保密信息系指一方或其关联实体向另一方或其关联实体直接或间接以书面、口头或检查有形物的形式披露的被指定为“保密的”、“专有的”或类似名称的任何信息。以口头形式传播的信息只有在披露后 20 天内被指定为保密信息并由披露方以书面形式确认，才可以视为保密信息。技术、价格、协议的任何谈判条款以及市场战略都是 ChannelAdvisor（畅路销）的保密信息且无须标记或指定为专有或保密的信息。接受保密信息的一方不得向任何第三方披露该等信息，但是，ChannelAdvisor（畅路销）可以为履行其在本协议项下的权利和义务将该保密信息与 ChannelAdvisor（畅路销）的关联实体、代理和第三方进行分享。各方应以保护自己保密信息同等的注意程度保护另一方的保密信息的保密性，但不得低于合理注意的程度。保密信息不包括任何以下信息：**(a)** 并非由于接收方的作为或不作为而已经或将要成为公众知晓的信息；**(b)** 披露时接收方已经获得且不受限于保密义务的保密信息；**(c)** 接收方从第三方获得且未违



反第三方保密义务的信息；(d) 接收方未使用披露方的保密信息而独立研发的信息；或(e) 一方书面同意解除限制的信息。如果任何一方收到传票、其他有效的司法程序、或政府机构要求披露另一方的保密信息，接收方应通知披露方（除非这样做会违反传票或司法程序），并且在披露方请求后，应合理地配合研究保密方法或获得适当的保护性禁令保护保密信息的保密性，披露方应独自承担相关费用。所有保密义务在期限终止后 3 年内继续有效。各方同意违反本保密义务会造成不可挽回的损失，且该损失无法通过经济赔偿救济，受损害的一方有权除任何可获得的法律或衡平的救济外就该违约或可能的违约获得禁令救济，且无需缴纳任何保证金。

**CONFIDENTIALITY.** Confidential Information means any information directly or indirectly disclosed by one party or its Related Entities to the other party or its Related Entities, in writing, orally or by inspection of tangible objects, which is designated as "Confidential," "Proprietary" or a similar designation. Information communicated orally is considered Confidential Information only if designated as Confidential Information upon disclosure and confirmed by the discloser in writing no later than twenty (20) days thereafter. The Technology, pricing, any negotiated terms of the Agreement and market strategies, are ChannelAdvisor's Confidential Information without need to mark or designate the information as confidential or proprietary. A party receiving Confidential Information shall not disclose it to any third party, provided, however, that ChannelAdvisor may share Customer's Confidential Information with ChannelAdvisor's Related Entities, agents, and third parties for the purpose of carrying out its rights and responsibilities under this Agreement. Each party shall keep the other party's Confidential Information confidential using the same degree of care it uses to protect its own confidential information, but no less than reasonable care. Confidential Information does not include any information that: (a) is or becomes publicly available through no action or inaction of the receiving party, (b) is already in the receiving party's possession at the time of disclosure and is not subject to confidentiality obligations, (c) the receiving party obtains from a third party without a breach of the third party's obligations of confidentiality, (d) the receiving party independently develops without use of the disclosing party's Confidential Information, or (e) a party agrees in writing is free of restrictions. If either party receives a subpoena or other validly issued judicial process requesting, or is required by a government agency to disclose the other party's Confidential Information, the receiving party shall notify the disclosing party, unless doing so would violate the subpoena or process, and, upon the disclosing party's request shall reasonably cooperate to seek confidential treatment or to obtain an appropriate protective order to preserve the confidentiality of the Confidential Information at the disclosing party's sole expense. All confidentiality obligations survive the Term for three (3) years. The parties agree that breach of this confidentiality obligation will cause irreparable damage that cannot be fully remedied through the payment of monetary damages and that the injured party has the right to obtain injunctive relief for any such breach or threatened breach without the obligation of posting bond, in addition to any other remedies available at law or in equity.

## 11.0 一般条款 GENERAL PROVISIONS

**11.1 一般事项。**各方承认并同意本协议未以任何方式限制任何一方在任何时候选择以任何方式独立研发、营销、许可或另行分配任何产品的权利。客户可以选择使用 ChannelAdvisor（畅路销）的标志并在 <http://www.channeladvisor.com/logos/> 进行事先批准以履行其在本协议项下的权利和责任，包括在客户的公司网站展示标志和经批准的副本显示客户与 ChannelAdvisor（畅路销）的关系。向 ChannelAdvisor（畅路销）提交的申请应发送至 [marketing@channeladvisor.com](mailto:marketing@channeladvisor.com) 且 ChannelAdvisor（畅路销）应在 5 个工作日内对该请求做出回复。任何一方可以根据其法律顾问的建议按照法律的要求进行披露，且无需另一方同意。在该等情况下，除非法律禁止，披露方应提前 5 天向另一方提出书面通知告知该披露行为。未经另一方事先书面同意，任何一方不得转让本协议，除非：(a) 如果任何一方发生重组、合并、或出售全部或实质性全部资产时，可以未经另一方同意转让本协议；以及(b) ChannelAdvisor（畅路销）可以未经客户同 ChannelAdvisor（畅路销）的关联实体转让本协议。本协议的所有条款对本协议各方及其各自许可的继承人和受让人具有约束力，且符合其利益。各方是独立的合同方。本协议及其发票构成各方之间就本协议事项的完整协议并取代各方有关本协议事项的任何及全部先前的或间接的谈判、计划、协议和谅解，无论口头的或书面的。任何本协议未明确规定或提及的陈述、保证、交易习惯或商业习惯不具有约束力。除非本协议另有规定，本协议仅能以书面形式修订并经双方签署生效；但是，客户可以通过电话或书面方式联系 ChannelAdvisor（畅路销）要求变更网络站点、弹性资讯或任何其他影响使用权利的因素。ChannelAdvisor（畅路销）接受请求后，该等变更会产生额外的费用，该等额外的费用将从变更之日计算，在收到客户的接收通知后开具发票，并根据第 4.0 的规定到期应付。变更及其产生的发票是协议的一部分。如果本协议的任何条款由于任何原因无效或不可执行，本协议的其余条款继续有效并且该分割的条款应解释为符合本协议。任何一方在任何时候未要求履行任何条款不构成豁免或影响之后执行任何条款的权利。标题仅为参考之用且不影响本协议的含义或解释。本协议提及的所有附件构成本协议的一部分。如果工作说明书的条款与服务框架协议条款产生冲突，以工作说明书的条款为准。各方向另一方陈述并保证其不会依赖另一方未在服务框架协议或工作说明书中明示的任何承诺、保证和/或担保。

**General.** The parties acknowledge and agree that this Agreement does not in any way limit either party's right at any time to independently develop, market, license, or otherwise distribute, any product in any manner that it chooses. Customer may use the ChannelAdvisor logos and pre-approved copy at: <http://www.channeladvisor.com/logos/> to carry out its rights and responsibilities under this Agreement, including references to Customer's relationship with ChannelAdvisor by posting the logo and approved copy to Customer's corporate website. Requests to ChannelAdvisor shall be submitted to: [marketing@channeladvisor.com](mailto:marketing@channeladvisor.com) and ChannelAdvisor shall respond to such requests within five (5) business days. Either party may make disclosures as required by law as reasonably advised by its legal counsel without the consent of the other party and in such event, the disclosing party will provide at least five (5) business days prior written notice of such disclosure unless prohibited by law. Neither party may assign this Agreement without the other party's prior written consent, except that: (a) either party may assign this Agreement without the other's consent in the case of a reorganization, merger, consolidation, or sale of all or substantially all of its assets, and (b) ChannelAdvisor may assign this Agreement without Customer's consent to ChannelAdvisor's Related Entities. All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. The parties are independent contractors. This Agreement and invoices arising under it constitute the entire agreement between the parties with respect to the subject matter hereof and supersede any and all prior or collateral negotiations, proposals, agreements and understandings, whether oral or written, relating to the subject matter of this Agreement. Any representation, warranty, course of dealing or trade usage not expressly contained or referenced in this Agreement shall not be binding. Except as otherwise stated in the Agreement, any amendments to this Agreement must be in writing and executed by the parties; provided, however, that Customer will contact ChannelAdvisor by phone or in writing with a request to change Network Sites, Flex Feeds, or any other factor affecting applicable usage rights. Upon acceptance by ChannelAdvisor, these changes may result in additional Fees, which are calculated as of the date of the change, invoiced upon receipt of notice from Customer, and payable in accordance with Section 4.0 (Payment). The changes, as memorialized by an invoice, shall become part of the Agreement. If any provision of this Agreement is held or made invalid or unenforceable for any reason, the invalidity will not affect the remainder of this Agreement and the severed provision shall be interpreted to be consistent with the Agreement. The failure of either party at any time to require performance of any provision shall not waive or affect the right at a later time to enforce any provision. Section headings are for reference purposes only and in no way affect the meaning or interpretation of this Agreement. All Exhibits referenced in this Agreement are incorporated into this Agreement by reference. To the extent the terms of an SOW conflict with the terms of this MSA, the terms of the SOW control. **Each party represents and warrants to the other party that it is NOT relying on any promises, guarantees and/or assurances of the other party that are NOT otherwise expressly contained in this MSA or an applicable SOW.**

**11.2 通知。**本协议要求或允许的任何通知应以书面形式做出并且按以下方式递送的视为有效送达：(a) 专人递送的，在送达时视为有效送达；(b) 隔夜快递递送的，收到书面接收证明视为送达；(c) 以传真发出的，收到传真的传输报告视为送达；(d) 以挂号信递送的，在收到接收证明后，交还收据视为送达；(e) 通



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过电子邮件通知的，只要电子邮件标题中出现“通知”或“法律通知”的字样并且电子邮件显示发送确认时视为送达。通知必须送至工作说明书所列的联系人地址，或以任何允许的通知方式提供的任何新地址。向 ChannelAdvisor（畅路销）发送通知的，应同时向其法务总监发送一份副本（或如果通过电子邮件发送通知，应抄送 legal@channeladvisor.com）。客户不得起诉以及特此放弃由于客户未向 ChannelAdvisor（畅路销）提供其现有联系方式而缺少通知进行的抗辩。

**Notice.** Any notice required or permitted by this Agreement shall be in writing and deemed delivered if delivered (a) by personal delivery when delivered, (b) by overnight courier upon written verification of receipt, (c) by telecopy or facsimile transmission when confirmed by telecopy or facsimile transmission report, (d) by certified or registered mail, return receipt requested, upon verification of receipt or (e) by email notification as long as “NOTICE” or “LEGAL NOTICE” appears in the subject line of the email and the email is set up to show a delivery confirmation. Notices must be sent to the contacts and address in the SOW, or any new address provided by the permitted notice methods, and in the case of ChannelAdvisor, with a copy to the attention of General Counsel (and, if by email, legal@channeladvisor.com). Customer may not claim, and hereby waives, any defense of lack of sufficient notice for Customer’s failure to provide ChannelAdvisor its current contact information.

**11.3 适用法律和争议解决。**各方同意对存在争议的事项以及争议本身进行保密，并以友好协商的方式及时解决与本协议有关的所有争议。如果某项争议未能在提出后的 15 天内得到解决，任何一方可以要求授权高管间协商以解决争议。如果在一方请求协商后 30 天内争议仍未得到解决，任何一方可以启动司法程序（如果法定时效到期或一方寻求禁令救济则该等时间限制不适用）。本协议适用香港特别行政区法律（不包括其冲突法规则）。本协议所引起的，或者与本协议有关的任何争议和诉求，包括本协议的签署、有效性、解释、履行、违约或终止，以及本协议所引起的或者与本协议有关的所有非合同性质的义务，均应由香港国际仲裁中心（“HKIAC”）根据其在仲裁申请提交时有效的香港国际仲裁中心仲裁规则（“规则”）按照加速程序仲裁解决。仲裁员应为 1 名。仲裁语言为英语。本仲裁条款所依据的法律为香港法律。仲裁地应为香港。如果在仲裁过程中任何通讯或文件系以中文做出，则提交该等通讯或文件的一方应自行承担费用将其翻译成英文。仲裁庭的裁决应为终局并具有约束力，并且任何一方均可向具有管辖权的法院提交执行该等仲裁裁决的申请。本条并不影响一方在仲裁庭组成之前向任何具有管辖权的法院申请临时禁令，以便协助仲裁庭的组成或保护其权利。

**Governing Law and Dispute Resolution.** The parties agree to treat the subject matter and existence of a dispute confidential and to resolve all disputes with respect to this Agreement promptly by negotiating in good faith. If a dispute is not resolved within fifteen (15) days of complaint, either party may request negotiation between executives with authority to resolve the matter. If the matter is not resolved within thirty (30) days of a party’s request for negotiation, either party may initiate judicial proceedings (these time limitations do not apply if a statute of limitations will expire or if the party is seeking injunctive relief). The laws of Hong Kong Special Administrative Region, without regard to its conflicts of laws provisions, govern this Agreement. Any dispute, controversy, difference or claim arising out of or in relation to this Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Hong Kong International Arbitration Centre (“HKIAC”) as an Expedited Procedure under the HKIAC Administered Arbitration Rules (the “Rules”) in force when the notice of arbitration is submitted. The number of arbitrators shall be one. The language of the arbitration shall be English. The law of this arbitration clause shall be the laws of Hong Kong. The seat of arbitration shall be Hong Kong. If in the arbitral proceedings any written or oral communication is made in Chinese by a party, such party shall at its own cost provide English translation. The award of the arbitral tribunal shall be final and binding, and any party may apply to a court of competent jurisdiction for enforcement of such arbitral award. Nothing in this Section shall limit the right of either party to seek from any court of competent jurisdiction, pending appointment of the arbitral tribunal, interim relief in aid of arbitration or to otherwise protect or enforce its rights.

**11.4 不可抗力。**除付款义务外，任何一方均不因超出其可合理控制的因素造成的未能履行或迟延履行本协议项下的义务负责。这些因素包括但不限于：公敌或政府机构的主权或合同行为、战争、火灾、洪水、罢工、疫情、检疫管制、网络站点不可用、弹性资讯地点不可用、互联网不可用、内乱或暴乱、恐怖活动、运输延迟、货物禁运或异常灾害天气。受影响的一方应尽商业上的合理努力避免或消除造成未能履行或延迟的事由，并且应在该等事由消除后继续履行。如果任何未能履行或延迟持续时间超过 30 天，未受影响的一方可以向受影响的一方发出书面通知解除本协议且未受影响的一方无须承担责任。

**Force Majeure.** Neither party shall be liable for failure to perform, or the delay in performance of, any of its obligations under this Agreement other than payment if, and to the extent that, the failure or delay is caused by events beyond its reasonable control including without limitation acts of the public enemy or governmental body in its sovereign or contractual capacity, war, fire, floods, strikes, epidemics, quarantine restrictions, unavailability of any Network Site, Flex Feed destination, or the Internet, civil unrest or riots, acts of terrorism, transportation delays, freight embargoes or unusually severe weather. The affected party shall use commercially reasonable efforts to avoid or remove the causes of non-performance or delay, and shall continue performance whenever the causes are removed. If any non-performance or delay continues for more than thirty (30) days, this Agreement may be terminated by the unaffected party without liability upon written notice to the affected party.

**11.5 语言。**本协议的中文翻译仅供参考的目的。如果中文和英文条款存在任何差异，英文条款应具有优先的效力。

**Language.** The Mandarin language version of these terms is for reference purposes only. In the event of a conflict between the Mandarin and English versions of these terms, the English version of these terms shall control.

2019 年 2 月修订  
Revised May 2019



附件 A: 自助服务附加条款与条件  
Exhibit A: Self-Service Additional Terms and Conditions

授予许可与自助服务使用的限制。本附件 A (“自助服务附加条款与条件”) 的条款通过参考本协议而组成整体并成为本协议的一部分。下划线所界定之字词的具有同本协议第 **Error! Reference source not found.** 条 (定义) 所述相同的含义。

**License Grant and Restrictions on Self-Service Use.** The terms in this Exhibit A (“Self-Service Additional Terms and Conditions”) are a part of and incorporated by reference into the Agreement. Capitalized terms have the meanings stated in Section 1.0 (DEFINITIONS) of the Agreement.

**1. 授予许可; 限制。** 客户签订自助服务工作说明书后, 作为客户支付费用和税费的对价, ChannelAdvisor (畅路销) 授予客户一项有限的、非排他的、不可让与的、不可转让的许可 (客户无权将该许可转授权), 在期限内代表并为客户商业运营之利益访问和使用工作报告所述的 ChannelAdvisor 平台的模块。客户的员工仅可在满足下列情形时访问和使用被许可的模块: (a) 通过互联网或专用通信线; (b) 根据文件; 以及 (c) 为协议明示之目的。客户可以复制、分配和传输内容, 只要该等行为是通过客户使用服务附带的客户浏览器软件自动完成的。客户不得在客户的网站对 ChannelAdvisor 平台、其他被许可的软件或服务的任何部分设置镜像, 也不得通过客户的网站展示基于 ChannelAdvisor (畅路销) 根据协议授权客户使用的任何服务而产生的网页成果或其他信息。除非 ChannelAdvisor (畅路销) 有明示授权, 客户不得允许: (a) 合同方或其他第三方为第三方的商业运营或利益使用或访问 ChannelAdvisor 平台或服务; 以及 (b) 作为或由代理或服务供应商使用或访问 ChannelAdvisor 平台或服务。客户不得绕过或帮助第三方绕过许可授权的限制。客户应遵守所有适用的法律和法规确保出口技术或任何直接基于技术的产品不违反适用的法律。客户陈述并保证其不会使用任何设备、软件或路径干扰或试图干扰 ChannelAdvisor 平台的正常运作。

**Grant of License; Restrictions.** Upon Customer entering into a Self-Service SOW, and in exchange for Customer paying the Fees and applicable taxes, ChannelAdvisor grants Customer a limited, non-exclusive, non-assignable, non-transferable license, without right to sublicense, to access and use the Modules of the ChannelAdvisor Platform described in an SOW during the Term for the benefit and on behalf of Customer’s business operations. Employees of Customer may access and use the licensed Module solely: (a) via the Internet or a dedicated communications line, (b) in accordance with the Documentation and (c) for its intended purpose, as expressly stated in the Agreement. Customer may copy, distribute and transmit content provided that these activities are automatically done through Customer’s browser software incidental to Customer’s use of the Services. Customer may not mirror on Customer’s website any portion of the ChannelAdvisor Platform, other licensed software, or Services or display through Customer’s website any results pages or other information from any of the Services that ChannelAdvisor has licensed for Customer use under the Agreement. ChannelAdvisor reserves all rights not explicitly granted to Customer. Unless expressly authorized by ChannelAdvisor, Customer may not permit: (a) contractors or other third parties to use or access the ChannelAdvisor Platform or Services for the third parties’ business use or benefit, and (b) use of or access to the ChannelAdvisor Platform or Services as or by an agency or service provider. Customer may not circumvent, or assist a third party to circumvent, the restrictions of any license grant. Customer shall comply with all applicable laws and regulations to ensure that neither the Technology, nor any direct product thereof, are exported, directly or indirectly, in violation of applicable law. Customer represents and warrants that Customer will not use any device, software or routine to interfere or attempt to interfere with the proper working of the ChannelAdvisor Platform.

**2. 负荷限制。** 客户不得在 ChannelAdvisor 平台放置 ChannelAdvisor (畅路销) 认为不合理或不合适的, 或是 [community.channeladvisor.com](http://community.channeladvisor.com) 网站上的 ChannelAdvisor 策略&支持中心所提及的 (包括但不限于 ChannelAdvisor 平台处理的密码数字和库存单位 (SKUs)) 大量负荷, 并且如果客户的行为对任何模块造成不合理或不适当的负荷, ChannelAdvisor (畅路销) 可以限制客户的访问。若 ChannelAdvisor (畅路销) 根据本条款行使其权利来限制客户的访问, ChannelAdvisor (畅路销) 应尽商业上的合理努力, 在其认为可行时尽快向客户提供此种行动的通知和信息。工作说明书可以规定额外的负荷限制或预期。

**Load Restrictions.** Customer must not place an unreasonable or disproportionately large load on the ChannelAdvisor Platform as determined by ChannelAdvisor in its sole discretion or as referenced on the ChannelAdvisor Strategy & Support Center at [community.channeladvisor.com](http://community.channeladvisor.com) (including without limitation the number of keywords and SKUs processed by the ChannelAdvisor Platform), and ChannelAdvisor may limit or restrict Customer’s access if Customer’s activities unreasonably or disproportionately burden any Module. If ChannelAdvisor exercises its rights to limit or restrict Customer’s access under this Section 2, ChannelAdvisor shall use commercially reasonable efforts to provide notice and information regarding such action by ChannelAdvisor to Customer as soon as, in ChannelAdvisor’s sole discretion, it is practical to do so. Additional load restrictions or exceptions may be stated in the SOW.

**3. 免责声明/附加责任。** 除服务框架协议以及任何适用的工作说明书所述的客户责任和义务之外, 客户负责阅读并理解与客户使用模块功能有关的文件。客户负责在访问或使用模块或服务之前联系 ChannelAdvisor (畅路销) 并要求解释如何使用模块的特性或功能或服务。ChannelAdvisor (畅路销) 对客户根据文件所述使用模块或相关模块功能所产生的后果不承担责任。

**DISCLAIMER OF WARRANTIES/ADDITIONAL RESPONSIBILITIES.** IN ADDITION TO CUSTOMER’S RESPONSIBILITIES AND OBLIGATIONS STATED IN THE MSA AND ANY APPLICABLE SOW, CUSTOMER IS RESPONSIBLE FOR READING AND UNDERSTANDING THE DOCUMENTATION AS IT RELATES TO CUSTOMER’S USE OF MODULE FUNCTIONALITY. CUSTOMER IS RESPONSIBLE FOR CONTACTING CHANNELADVISOR TO REQUEST CLARIFICATION ON HOW TO USE A MODULE FEATURE OR FUNCTIONALITY OR SERVICES PRIOR TO ACCESSING OR USING THAT MODULE OR SERVICES. CHANNELADVISOR IS NOT RESPONSIBLE FOR THE RESULTS OF CUSTOMER’S USE OF THE MODULES OR ASSOCIATED MODULE FUNCTIONALITY AS DESCRIBED IN THE DOCUMENTATION.