



MASTER TERMS AND CONDITIONS

Customer, as named in that certain Solution Summary (the “Master Agreement”), with Cloudwyze, Inc., a North Carolina corporation (“CloudWyze”), hereby agrees to the following terms and conditions (these “Terms” and, together with the Master Agreement and any subsequent Purchase Orders, this “Agreement”), which are incorporated into and made a part of the Master Agreement and govern the provision of Products and Services (as defined below) to Customer.

These Terms consist of the following:

GENERAL TERMS AND CONDITIONS
TERMS SPECIFIC TO INTERNET SERVICE ORDERS
TERMS SPECIFIC TO PHONE SERVICE ORDERS
TERMS SPECIFIC TO PRIVATE AND SHARED CLOUD SERVICE ORDERS
TERMS SPECIFIC TO EQUIPMENT RENTALS
DISCLAIMERS AND LIMITATIONS OF LIABILITY

THE TERMS SPECIFIC TO A PARTICULAR PRODUCT OR SERVICE SHALL ONLY APPLY TO CUSTOMER TO THE EXTENT CUSTOMER ORDERS SUCH PRODUCT OR SERVICE IN THE MASTER AGREEMENT OR ANY PURCHASE ORDER.

DEFINITIONS. Whenever used in this Agreement, the words and phrases listed below shall have the meanings given below, and all defined terms shall include the plural as well as the singular.

“Affiliate” of a party means the party, any entity that is directly or indirectly controlling, controlled by or under common control with the party, and the directors, officers, employees, and agents of all of them, when acting in their corporate capacity.

“Chronic Service Interruption” means an Interruption (as defined below) which occurs three (3) or more times, within nine (9) consecutive calendar weeks.

“CloudWyze” means CloudWyze, Inc. and those of its Affiliates providing Products and Services to Customer hereunder.

“Confidential Information” means all non-public confidential or proprietary information concerning the business of Customer, CloudWyze, or any third-party doing business with either of them that may be obtained from any source by CloudWyze by virtue of its performance under this Agreement or by Customer by virtue of its use of the Products and Services. Such information shall also include the terms of this Agreement (and negotiations and proposals from one party to the other related thereto), network designs and design recommendations, tools and programs, pricing, methods, processes, financial data, software, research, development, strategic plans or related information. All such information disclosed prior to the execution of this Agreement shall also be considered Confidential Information for purposes of this Agreement. The network design and configuration of the Products and Services purchased hereunder, shall be deemed Customer’s Confidential Information, and shall not be deemed CloudWyze’s Confidential Information. Confidential Information shall not include information that: (a) is already rightfully known by the receiving person at the time it is obtained by such person, free from any obligation to keep such information confidential; (b) is or becomes publicly known through no wrongful act or breach of this agreement by the receiving person; (c) is rightfully received by the receiving person from third party without restriction and without breach of this Agreement.



“Customer” means the company, person or other entity and those of its Affiliates purchasing Products and Services from CloudWyze hereunder.

“Equipment” means all items of equipment leased or purchased by Customer from CloudWyze and used to enable Customer to utilize the Products and Services provided hereunder.

“Installation Site” means any location for which Customer orders Products or Services, as specified in the Master Agreement. The Installation Sites may be changed by Customer from time to time on reasonable notice pursuant. If Customer changes the location of an Installation Site prior to the actual installation, Customer will not incur additional charges if notice of the change is received by CloudWyze within ten (10) days of the date the Purchase Order is submitted to CloudWyze.

“Interruption” means an event resulting from the failure of the Products and Services which prevents utilization of the Product or Service. Scheduled maintenance downtime is not considered an Interruption. An Interruption begins when CloudWyze is notified or becomes aware of the failure, whichever first occurs. An Interruption continues until the Products and/or Services are repaired or restored.

“Performance Specifications” means the IT standards provided by CloudWyze in order to use its Products and Services.

“Purchase Order” means a purchase order for additional Products and Services, in form and substance acceptable to CloudWyze in its sole discretion.

“Products and Services” means the equipment, facilities, programming, software, and related services provided by CloudWyze to Customer and designated in the Master Agreement, which collectively constitute a fully managed network of Working Systems. The Products and Services include CloudWyze Frame Relay Service but do not include special access lines that may be used by Customer in connection with the Products and Services.

“Working System” means an Installation Site at which the installation of the Products and Services has been installed by CloudWyze for the benefit of Customer.

GENERAL TERMS AND CONDITIONS

1. SCOPE. Customer has ordered, and CloudWyze hereby agrees to provide, the Products and Services specified in the Master Agreement and any Purchase Order at the Installation Site(s) designated by Customer. CloudWyze shall install, manage, and maintain the Products and Services at each Installation Site in accordance with these Terms. The parties hereto acknowledge that from time to time they may enter into new Purchase Orders. These Terms shall be interpreted wherever possible to avoid conflict between the provisions hereof and the provisions included any Purchase Order, provided that if such a conflict shall arise, the provisions of these Terms shall control.

2. PROPRIETARY RIGHTS; LICENSE. (a) CloudWyze hereby grants to Customer a non-exclusive, non-transferable license, without right of sublicense, during the term of this Agreement to access and use CloudWyze’s programming and software which are strictly necessary for Customer to use the Products and Services.] (b) All title and property rights (including intellectual property rights) to Products and Services (including associated programming and software) are and shall remain with CloudWyze. Customer shall not attempt to examine, copy, alter, “reverse engineer,” tamper with or otherwise misuse such Products and Services, programming and software. Customer accepts title to the Equipment and risk of loss of Equipment FOB destination.



3. TERM. This Agreement shall have a term commencing on the Effective Date specified in the Master Agreement which may be extended the applicable Purchase Order and continuing in full force and effect until the earlier of (a) the date on which CloudWyze is no longer providing any Products and Services to Customer or (b) the date of termination of this Agreement as set forth below. The Master Agreement and any subsequent Purchase Orders specifies the initial periods during which CloudWyze will provide the particular Products and Services designated therein. Such time periods with respect to any such Product or Service will automatically be extended by subsequent periods of the same duration as the initial period unless Customer provides written notice to CloudWyze at least thirty (30) days prior to such extension of Customer's intent not to extend.

4. TERMINATION BY CUSTOMER. Customer shall have the right to terminate this Agreement for cause, with no liability to CloudWyze other than for charges (less any applicable credits) for Product and Services provided prior to such termination: (i) if Customer provides written notice that CloudWyze has failed to perform or comply with or violates any material term, condition, or obligation of this Agreement and CloudWyze does not cure any such failure or violation within thirty (30) business days of receiving such notice; (ii) upon thirty (30) days' prior written notice if CloudWyze becomes the subject of a voluntary or involuntary bankruptcy, insolvency, reorganization, or liquidation proceeding; or makes an assignment for the benefit of its creditors, Unless prohibited by law, CloudWyze will continue to provide service in accordance with the terms, conditions and rates herein for a period of up to three (3) months after the effective date of termination.

5. PARTIAL TERMINATION. Independent of Customer's other rights to terminate this Agreement, Customer may (i) terminate any or all Products and Services at any Installation Site at which there is a Chronic Service Interruption affecting Products and Services that collectively account for twenty-five percent (25%) or more of Customer's total payments for all Products and Services at such Installation Site, or (ii) terminate at all Installation Sites any specific Product or Service subject to a Chronic Service Interruption if such Product or Service accounts for twenty-five percent (25%) or more of Customer's total payments for all Products and Services. The Minimum Commitment shall be reduced to reflect the termination of any Products or Services under this Section.

6. DEFAULT. Any of the following events or conditions will constitute a default hereunder: (a) Customer fails to pay any sum due to CloudWyze on or before the due date thereof (a "Payment Default"); (b) Customer fails to observe or perform any other term, covenant, or condition of this Agreement and such failure continues for ten (10) days following the receipt of written notice thereof from CloudWyze; (c) the filing by or against Customer of a petition under the Bankruptcy Code or under any other insolvency law providing for the relief of debtors; (d) the voluntary or involuntary making of an assignment or sale of a substantial portion of Customer's assets, appointment of a receiver or trustee for Customer or for Customer's assets, commencement of any formal or informal proceeding for dissolution, liquidation, settlement of claims against, or winding up of Customer's affairs, or Customer ceases doing business as a going concern; (e) any representation or warranty made by Customer herein or in any document delivered by Customer in connection herewith that proves to have been misleading in any material respect when made; (f) Customer is in default under any other contract with CloudWyze or any Affiliate; (g) any Equipment (as defined below) is, in the sole opinion of CloudWyze, in danger of loss or abuse; (h) the determination in good faith by CloudWyze that the prospect of payment to CloudWyze is impaired; or (i) the tampering with, loss of, damage to, or destruction of any Equipment.

7. TERMINATION BY CLOUDWYZE. Subject to any cure periods, CloudWyze shall have the right to terminate this Agreement for any default included in Section 6; provided further that if for no more than two Payment Defaults in any twelve month period, which are not the subject of a bona fide dispute CloudWyze will provide written notice to Customer and Customer shall have five (5) business days following Customer's receipt of such notice to cure such Payment Default.



8. RATES AND CHARGES. For the term of this Agreement, CloudWyzé shall charge Customer the rates and charges for the Products and Services set forth in the Master Agreement or Purchase Order. The move or relocation of an Installation Site shall be treated as a new installation. Any additional charges shall be mutually agreed upon by the parties.

9. AUTO-PAY. Customer agrees to enroll in CloudWyzé's auto-pay program to pay Customer's invoices via a valid Credit Card. Visa, MasterCard, Discover, or American Express are accepted card types. The registration form for CloudWyzé's auto-pay program will be provided to Customer during Customer's project implementation. The auto-pay program will automatically charge the amount due to CloudWyzé on the customer's period renewal day of each month. [In addition, Customer may execute an addendum to this Agreement, authorizing CloudWyzé to charge its financial institution account via an ACH transaction for all amounts owed to CloudWyzé.

10. INVOICES.

(a) Products and Services shall be billed monthly in advance, beginning on the date specified in the Master Agreement or a subsequent Purchase Order or, if specified in the Master Agreement or a subsequent Purchase Order, on the date that the Products and Services to which the charges apply have been installed and have been accepted by Customer pursuant to this Agreement. All items on an invoice shall be payable by Customer in U.S. currency within thirty (30) days from the date of receipt of the invoice. All amounts not in dispute are subject to interest charges of three percent (3%) per month, or up to the maximum amount allowed by law, that will accrue daily on all amounts not paid within thirty (30) days of the date of receipt of the invoice.

(b) Customer shall pay sales, use, federal excise, utility, gross receipt, state and local surcharges, and similar taxes lawfully levied by a duly constituted taxing authority against or upon the Products and Services. In the alternative, Customer shall provide CloudWyzé with a certificate evidencing Customer's exemption from payment of or liability for such taxes. All other taxes, including any ad valorem, income, franchise, privilege, value added or occupational taxes of CloudWyzé's shall be paid by CloudWyzé.

(c) Bona fide disputes concerning invoices shall be referred to the parties' respective Contract Managers (defined below) for resolution. If they cannot resolve a dispute within a reasonable time, the matter shall be escalated to the parties' representatives for resolution. Any amount to which Customer is entitled as a result of the resolution of a billing dispute shall be credited promptly.

(d) In the event that Customer is seriously delinquent in payment of non-disputed charges, then CloudWyzé reserves the right to require a security deposit from Customer prior to continuing the provision of existing services or allowing the provisioning of additional services. If Customer is entitled to any service credits pursuant to CloudWyzé's then-current service levels, if applicable ("**Service Levels**"), CloudWyzé will apply such credits to Customer's invoice in the month after which the service credits are earned.

11. MINIMUM COMMITMENT. In the event Customer agrees to commit to a "Guaranteed Hours" plan as set forth in the Master Agreement or a subsequent Purchase Order, Customer agrees to pay such rates under the plan regardless of actual hours used.

12. ACCEPTANCE. (a) Upon the installation of Products and Services associated with first Installation Site, CloudWyzé shall conduct appropriate tests to establish that such Products or Services perform in accordance with the Performance Specification criteria ("Acceptance Criteria"). If test results show that Products and/or Services are performing in accordance with the Performance Specification, Customer shall accept the Product or Service at an Installation Site within five (5) days of receipt of CloudWyzé's test results. If Customer does not notify CloudWyzé of its acceptance within that period, the Product or Service



shall be deemed to be accepted by Customer on the last day of that period. CloudWyze may invoice Customer for such Product or Service effective the day after its acceptance under this Subsection. (b) If CloudWyze's tests establish that a newly installed Product or Service does not perform in accordance with the mutually agreed upon Acceptance Criteria, or Customer reports to CloudWyze within the acceptance period specified in Subsection (a) that it does not perform in accordance with the mutually agreed upon Acceptance Criteria, CloudWyze shall immediately and diligently exert best efforts to bring it into compliance. CloudWyze shall not bill Customer for such Product or Service until its acceptance by Customer. (c) Upon repair or restoration of Products and Service at any Installation Site, CloudWyze shall conduct appropriate tests to establish that it performs in accordance with mutually agreed upon Acceptance Criteria and shall promptly inform Customer of such test results.

13. NETWORK OPTIMIZATION. (a) CloudWyze shall reasonably assist Customer in optimizing the efficiency and cost-effectiveness of the Products and Services in general and at each Installment Site. CloudWyze shall, at a cost to be mutually negotiated, implement upgrades to maximize the efficiency of the Products and Services at such Installation Sites. (b) In cooperation with Customer, CloudWyze shall review the design and configuration of the Products and Services whenever Customer's traffic materially changes (e.g., upon the acquisition, divestiture or cessation of business operations) or new or different products or services become Products and Services hereunder. In any event, such reviews will be conducted at least every ninety (90) days if so requested by Customer. CloudWyze shall provide written recommendations to Customer based upon such reviews.

14. EQUIPMENT PROVIDED BY CLOUDWYZE. In offering certain Products and Services, CloudWyze may supply certain equipment to Customer. All equipment shipments are F.O.B. CloudWyze's facility. CloudWyze's liability for delivery shall cease, and title (if applicable) and all risk of loss or damage shall pass to Customer upon delivery to carrier. Customer will be provided with manufacturer's warranty from the date of purchase of equipment. Customer shall be required to obtain authorization from CloudWyze to return any equipment. CloudWyze will replace equipment only if the equipment is deemed to be defective and covered under the warranty. CloudWyze will not cover replacement for lost, stolen, mistreated, or modified equipment. Equipment returned by Customer that is not covered under warranty may be refused by CloudWyze, and Customer will be responsible to pay return shipping charges.

15. EQUIPMENT PURCHASE/WARRANTY. Subject to execution of a separate agreement, Customer may purchase the equipment necessary to enable Customer to utilize the Products and Services provided hereunder. Although not advised by CloudWyze, Customer may choose to use pre-existing or newly purchased equipment and/or software from vendors other than CloudWyze ("Other Vendor Products").

16. EQUIPMENT AND SOFTWARE NOT PROVIDED BY CLOUDWYZE. (a) CloudWyze shall not be responsible for the installation, operation or maintenance of equipment or software not provided or authorized by CloudWyze in writing under this Agreement (e.g. Other Vendor Products); nor shall CloudWyze be responsible for the transmission or reception of information by equipment or software not provided hereunder. In the event that Customer uses equipment or software not provided hereunder in a manner that impairs Customer's use of the Products and Services, Customer shall not be excused from any obligations under this Agreement (e.g. payment). Upon notice from CloudWyze that equipment or software not provided under this Agreement is causing or is likely to cause hazard, interference or service obstruction, Customer shall use its best efforts to eliminate the hazard, interference or service obstruction. (b) Notwithstanding the foregoing, CloudWyze may, additional charge, work to with Customer to determine alternatives including building interface specifications for the Products and Services or providing a quotation to replace the reasonably requested by Customer. CloudWyze shall, upon the receipt of appropriate specifications from Customer, inform Customer of the likely compatibility with the Products and Services of any equipment or software that Customer proposes to use in connection therewith; the effects, if any, of the use of such equipment or software on the quality, operating characteristics, and efficiency of the Products and Services; and the effects if any, of the Products and Services on the operating characteristics



and efficiency of any such equipment or software. (c) If any material modification or reprovisioning of CloudWyze's network (including any modification of the software for which a license is provided hereunder) undertaken other than at Customer's request (i) adversely affects any of the Products and Services, (ii) causes Customer to incur significant costs for any Products and Services (a write-down of equipment or equipment-related assets being a cost for purposes of this Subsection), (iii) prevents proper operation of any Customer equipment, or (iv) prevents any Products and Services from meeting any Performance Specification, Customer shall have the right to terminate any adversely affected Products and Services pursuant to Section 4. CloudWyze shall provide advance notification to Customer of any such modification or reprovisioning. CloudWyze makes no representation or warranty whatsoever regarding any Other Vendor Products, and Customer agrees that CloudWyze will not be liable to Customer for any loss or damage arising from any assistance CloudWyze offers or provides with respect to the Other Vendor Products.

17. MAINTENANCE SUPPORT AND PRICING. CloudWyze shall provide maintenance service at each Installation Site in accordance with its then-current support terms commencing upon installation of the Products and Services at such Installation Site and continuing until the earlier of (a) the termination of all Products and Services at such Installation Site or (b) the termination or expiration of this Agreement. **SYSTEM-BASED MAINTENANCE** is completed on a monthly basis and contracted rates are paid for in advance. A monthly detail of tickets may be provided upon request. Agreement rates are based on, but not limited to: existing equipment, existing IT staff, onsite support, distance from headquarters, complexity of system, future goals, planned projects, number of 3rd party vendors, maintenance checks, preventative maintenance, scheduling, severity of confidentiality and role in the company. Any time beyond the allotted monthly contracted rate will be deemed as a project and billed as additional time based on project design. The monthly contracted amount is to be considered as the minimum commitment. **USAGE-BASED MAINTENANCE** is completed on a monthly basis and points are paid for in advance. A monthly detail of tickets may be provided upon request. If points are depleted and a contract is not renewed prior to depletion, the point rate will stay the same, however, offsite support will begin being billed at a full point rate and tickets move to first come, first serve basis unless otherwise specified in the agreement. Any time beyond the allotted monthly rate will be deemed as a project and billed as additional time based on the agreed point rate. The agreement point rate is based on, but not limited to: existing equipment, existing IT staff, onsite support, distance from headquarters, complexity of system, future goals, planned projects, number of 3rd party vendors, maintenance checks, preventative maintenance, scheduling, severity of confidentiality and role in the company. The monthly contracted amount is to be considered as the minimum commitment.

18. RIGHTS AND OBLIGATIONS OF CUSTOMER. (a) **CONTRACT MANAGER.** Customer shall assign a representative to serve as CloudWyze's point-of-contact for all matters concerning its performance under this Agreement. (b) **SITE PREPARATION.** The parties may agree that Customer shall, at its own expense, provide all necessary preparations of each Installation Site in accordance those requirements agreed upon by the parties in writing, including inside wiring, demarc extension and rack mount accessories. Customer shall ensure that Customer-provided equipment is on site by the scheduled installation date. If CloudWyze is required to reschedule the installation of Customer-provided equipment because it is not on site by the scheduled installation date, Customer shall pay CloudWyze to redispach installation personnel. (c) **PROPER USE OF EQUIPMENT.** (i) Customer shall use any equipment provided by CloudWyze in connection with the Products and Services in accordance with its documentation, which documentation shall be provided by CloudWyze at no additional charge. Unless otherwise provided herein, Customer shall surrender the equipment to CloudWyze upon the termination of this Agreement. (ii) Customer shall be liable for damages to the Products and Services caused by the negligence or willful acts or omissions of Customer's officers, employees, agents or contractors; for the loss through theft or vandalism of the Products and Services at the Installation Sites; and for damages to Products and Services caused by the use of equipment or supplies not provided hereunder or otherwise authorized by CloudWyze. (iii) Customer shall neither permit nor assist others to use the Products and Services for any purposes other than as specifically provided for in this Agreement; fail to maintain a suitable environment as specified CloudWyze



in the applicable schedule; or alter, tamper with, adjust or repair the Products and Services. Any such alteration, tampering, adjustment or repair by Customer shall relieve CloudWyze from any liability or obligation hereunder (including any warranty or indemnity obligation) relating to the affected Products and Services, and Customer shall be liable to CloudWyze for any documented direct costs incurred by CloudWyze as a result of such actions. (d) **ABUSE OR FRAUDULENT USE OF PRODUCTS AND SERVICES.** Customer shall neither permit nor assist others to abuse or fraudulently use the Products and Services, including (i) obtaining or attempting to obtain service by any fraudulent means or device to avoid payment; (ii) accessing altering or destroying any information of another CloudWyze customer by any fraudulent means or device, or attempting to do so; or (iii) using the Products and Services so as to interfere with the use of the CloudWyze network by other CloudWyze customers or authorized users in violation of the law or in support of any unlawful act. (e) **LICENSING OF THIRD-PARTY SOFTWARE.** Customer will be notified by CloudWyze of any known expiration and/or violations of licensing agreements pertaining to existing third-party software used by Customer. Customer agrees to hold CloudWyze harmless for any and all claims resulting from all such licensure violations.

19. RIGHTS AND OBLIGATIONS OF CLOUDWYZE. (a) **PROGRAM MANAGER.** CloudWyze shall assign a representative to serve as Customer's point-of-contact for all matters concerning its performance under this Agreement. (b) **PROVISION OF THE PRODUCTS AND SERVICES.** CloudWyze shall install, operate, maintain and manage the Products and Services at the Installation Site designated by Customer in accordance with the Performance Specifications and other terms of this Agreement. Unless otherwise agreed to by the parties, CloudWyze shall install the cable that connects the Products and Services to Customer servers at such Installation Sites to achieve a Working System. Customer may at any time add, delete, relocate or, with CloudWyze's consent, modify any Product or Service. The installation interval for any addition or relocation shall be determined by agreement of the parties. (c) **ACCESS AND SECURITY.** CloudWyze personnel shall have such access to Customer's premises as is reasonably necessary to provide the Products and Services in accordance with this Agreement, provided that CloudWyze personnel shall comply at all times with Customer's reasonable security and other workplace requirements. Customer shall have the right immediately to terminate the right of access of any CloudWyze personnel to any or all Installation Sites should Customer determine in its sole discretion that such termination is in Customer's best interest, provided that Customer shall not exercise this right on grounds unrelated to job performance or conduct at Customer's site or in a manner that obliges CloudWyze to commit any unlawful act. Unless CloudWyze knew or should reasonably have known that particular CloudWyze personnel would be barred from an Installation Site, the time allowed for any installation, repair, maintenance, or similar action that such personnel were to perform shall be extended for the period reasonably required by CloudWyze to deploy substitute personnel, provided that CloudWyze shall use its best efforts to deploy such substitute personnel as quickly as possible. For purposes of this Subsection, any subcontractor or other agent of CloudWyze shall be treated as CloudWyze personnel. (d) **INSURANCE.** (i) At all times during the term of this Agreement, CloudWyze shall maintain for itself, its officers, employees, agents, and representatives the following: (i) all insurance coverage required by federal and state law, including workers' compensation insurance; (ii) comprehensive general liability insurance with a combined limit of not less than \$1,000,000 of coverage for bodily injury and property damage under a standard or excess policy, together with additional insurance required to cover claims, losses and liabilities hereunder; (iii) automobile liability insurance in the amount of not less than \$1,000,000. CloudWyze's general liability insurance shall include coverage for claims brought against CloudWyze as a result of work performed by any of its subcontractors. The policy limits set forth in this Section shall in no way be construed as a limitation on CloudWyze's liability hereunder. (iv) In lieu of all or part of the insurance coverage specified in Subsection (v), CloudWyze may self-insure with respect to any insurance coverage, except where expressly prohibited by law. (e) **REPRESENTATIONS AND WARRANTIES.** (i) CloudWyze hereby warrants that the Products and Services, with the exception of the preexisting equipment or Other Vendor Products, will operate in accordance with the Performance Specifications upon the date installed and throughout the term of this Agreement. CloudWyze will perform all services in a professional and competent manner. (ii) **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED,**



INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. (f) **SERVICE LEVELS.** CloudWyze agrees to meet those service level commitments as set forth in writing to Customer with respect to Products and Services with, for additional clarity, the exception of the preexisting equipment, Other Vendor Products, or as otherwise restricted by CloudWyze. In the event CloudWyze fails to meet the service levels set forth therein, Customer will be entitled to receive a credit. The credit will be calculated by multiplying the percent of the month that the select service provided did not meet the Service Levels times the current amount charged to the Customer for that service on a monthly basis. The credit will be applied by CloudWyze to the Customer's next monthly invoice.

20. CONFIDENTIALITY. (a) During the term of this Agreement and for a period of five (5) years from the date of its expiration or termination or the expiration or termination of all extensions thereto, each party agrees to maintain in strict confidence all Confidential Information of the other party. Neither party shall, without prior written consent, use the other party's Confidential Information for any purpose other than for the performance of its duties and obligations under this Agreement. Each party shall use, and shall cause all authorized recipients of the other party's Confidential Information to use, the same degree of care to protect the other party's Confidential Information as it uses to protect its own. (b) Notwithstanding Subsection (a), either party may disclose the Confidential Information of other party to: (i) its employees and the employees, directors and officers of its affiliates as necessary to implement this Agreement and provided that such persons are contractually or otherwise legally obligated to hold the Confidential Information in accordance with this Agreement; (ii) employees, agents or representatives of the other party; or (iii) other persons (including counsel, consultants, lessors or managers of facilities or equipment used by such party) in need of access to such information for purposes specifically related to either party's responsibilities under this Agreement, provided that any disclosure of Confidential Information under clause (iii) shall be made only upon the prior written approval of the other party and subject to appropriate assurances that the recipient of such information shall hold it in strict confidence. (c) Upon the request of the party having proprietary rights to Confidential Information, the party in possession of such information shall promptly return it (including any copies, extracts and summaries thereof) to the requesting party, or, with the other party's written consent, shall promptly destroy it and provide the other party with written certification of same. (d) Either party may request in writing that the other party waive all, or any portion, of the requesting party's responsibilities relative to the other party's Confidential Information. Such waiver request shall identify the affected information and the nature of the proposed waiver. The recipient of the request shall respond within a reasonable time, and if, in its sole discretion, it determines to grant the requested waiver, it will do so in writing over the signature of an employee authorized to grant such request. (e) Customer and CloudWyze acknowledge that any disclosure or misappropriation of Confidential Information in violation of this Agreement could cause irreparable harm, the amount of which may be extremely difficult to determine, thus potentially making any remedy at law or in damages inadequate. Each party, therefore, agrees that the other party shall have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Section and for any other appropriate relief. This right shall be in addition to any other remedy available in law or equity. (f) A party requested or ordered by a court order or other governmental authority of competent jurisdiction or otherwise required by law, to disclose another party's Confidential Information shall notify the other party in advance of any such disclosure and reasonably assist the other party in resisting such disclosure. A party providing another party's Confidential Information to a court or other governmental authority shall use its best efforts to obtain a protective order or comparable assurance that the Confidential Information so provided will be held in confidence and not further disclosed to any other person, absent the owner's prior consent.

21. PRIVACY. CloudWyze utilizes the public internet and third-party networks to provide voice and video communication services. Accordingly, CloudWyze cannot guarantee the security of voice and video communications of Customer. CloudWyze is committed to respecting Customer's privacy. Once Customer chooses to provide personally identifiable information, it will only be used in the context of the Customer's relationship with CloudWyze. CloudWyze will not sell, rent, or lease Customers' personally identifiable information to others. Unless required by law or subpoena or if Customer's prior permission is obtained,



CloudWyze will only share the personal data of Customer with business partners that are acting on CloudWyze's behalf to complete the activities described herein. Such CloudWyze entities and/or national or international business partners are governed by CloudWyze's privacy policies with respect to the use of this data. Upon the appropriate request of a government agency, law enforcement agency, court, or as otherwise required by law, CloudWyze may disclose personally identifiable information.

22. INDEMNIFICATION. (a) CloudWyze shall indemnify, defend, and hold harmless Customer or any of its directors, officers, employees or permissible assigns from and against any third party claim for actual or alleged infringement of any patent, copyright, trademark, trade secret, or similar proprietary right to the extent that such claim or action arises from Customer's lawful use of the Products and Services in accordance with this Agreement. Customer shall notify CloudWyze promptly in writing of any such claim or suit and shall cooperate with CloudWyze in a reasonable way to facilitate the settlement or defense thereof. (b) If, as a consequence of a claim or action of the kind described in Subsection (a), CloudWyze's or Customer's use of any Product or Service or related documentation is enjoined, CloudWyze shall, at its own option and expense, either: (i) procure for Customer the right to continue using the affected Product or Service or documentation; (ii) modify such Product or Service or documentation so that it is non-infringing (provided that such modification does not affect the intended use of the Product or Service or documentation as contemplated hereunder); or (iii) upon written notice to Customer, substitute for such Product or Service or documentation a comparable, non-infringing service or documentation. If CloudWyze cannot do (i)-(iii) above, Customer may terminate any affected Product or Service as set forth in this Agreement, and CloudWyze shall refund to Customer any prepaid charges therefore. (c) Customer shall indemnify, defend, and hold harmless CloudWyze, its Affiliates and any of their respective directors, officers, employees, attorneys, agents, and assigns from and against all loss, liability, damage and expense, including reasonable counsel fees, arising from, related to, or in connection with: (i) Customer's negligence, intentional misconduct, breach of this Agreement or violation of any applicable law or regulation; (ii) any claim by any party related to Other Vendor Products; and (ii) any third party claim for infringement of any patent, copyright, trademark, trade secret, or similar proprietary right arising from Customer's use of equipment and software, apparatus and systems not provided hereunder in connection with Products and Services.

23. ARBITRATION. The parties will attempt in good faith to resolve any Dispute within thirty (30) days of notice of a Dispute through discussions between themselves at the operational level. After thirty (30) days either party can elect to have the Dispute settled by arbitration by informing the other party in writing. Any Dispute, except for those involving willful misconduct or gross negligence, shall be finally settled by arbitration in Wilmington, NC and shall be resolved under the laws of North Carolina without the use of court systems. The arbitration shall be conducted before a single arbitrator in accordance with the then in effect commercial rules and practices of the American Arbitration Association. The arbitrator shall have the power to order specific performance of any term or provision of this Agreement if requested by either party to the Dispute. Any award, order, or judgment pursuant to such arbitration shall be deemed final and binding and may be enforced in any court of competent jurisdiction. The parties agree that the arbitrator shall have no power of authority to make award or issue orders of any kind except as expressly permitted by this Agreement, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. All such arbitration proceedings shall be conducted on a confidential basis. The arbitrator may, as part of the arbitration award, permit the substantially prevailing party to recover all or part of its reasonable attorneys' fees and other out-of-pocket costs incurred in connection with such arbitration.

24. ASSIGNMENT. Neither party may assign this Agreement or any rights or obligations hereunder, without the prior written consent of the other party, which the other party may grant or withhold in its sole discretion. Notwithstanding the foregoing, either party may assign this Agreement or any or all of its rights and obligations hereunder, to its parent, any of its affiliates or subsidiaries or to a successor in connection with the sale of all or substantially all of the assets of such party upon notice to, but without the consent of, the



other party; provided such party, affiliate, subsidiary, or successor is not determined to be a competitor. No assignment of this Agreement shall relieve either party of any obligations thereunder. Any attempted assignment in violation of this Section shall be void.

25. FORCE MAJEURE. (a) In no event shall either party be liable to the other for any failure to perform hereunder that is due to war, riots, embargoes, strikes or other concerted acts of workers (whether CloudWyze's or others'), casualties, accidents, epidemics or pandemics, or other causes beyond the control of the party claiming excuse. No failure to perform shall be excused under this Subsection unless such failure and the consequences thereof are beyond the control and without the fault or negligence of the party claiming excuse. Each party shall, with the cooperation of the other, use reasonable efforts to mitigate the extent of any failure to perform and the adverse consequences thereof. (b) If CloudWyze cannot promptly provide a suitable temporary CloudWyze alternative to a Product or Service subject to an Interruption in connection with the existence of a force majeure condition, Customer may, at its option and at its own cost, contract with one or more third parties for any or all affected Products and Services for the shortest commercially available period likely to cover the reasonably expected duration of the Interruption, and may suspend CloudWyze's provision of such Products and Services for such period. CloudWyze shall not charge Customer for any Products and Services thus suspended during the period of suspension. CloudWyze shall resume provision of the suspended Products and Services upon the later of the termination or expiration of Customer's legally binding commitments under contracts with third parties for alternative services or the cessation or remedy of the force majeure condition. (c) In the event that a force majeure condition shall continue for more than sixty (60) days, Customer may cancel the affected Products and Services with no further liability to CloudWyze other than for Products and Services received by it prior to the occurrence of the force majeure condition.

26. MODIFICATIONS. No modification, amendment, or supplement to the Agreement or any of its provisions shall be binding upon the parties unless made in writing and signed by an authorized representative of the party against whom enforcement thereof is sought. A failure or delay of either party to enforce any of the provisions of this Agreement, to exercise within the time specified (if any) any option provided herein, or to require performance of any provision hereof shall in no way be construed to be a waiver of such option or provision.

27. NOTICES. CloudWyze communicates with its Customers primarily via email. Notices to Customer shall be sent to the email address specified by Customer at the time of registration for the Services or as subsequently specified by Customer ("Email Address"). Customer is responsible for notifying CloudWyze of any Email Address changes. Customer agrees that sending a message to the Email Address is the agreed upon means of providing notification. Email is used to communicate important information about the Services, billing, changes to the Services and other information. The information is time-sensitive in nature. It is required that Customer read any email sent to the Email Address in a timely manner in order to avoid any potential interruption in the Services provided hereunder.

28. ADVERTISEMENT AND PUBLICITY. Neither CloudWyze nor Customer shall use the name of the other in any publicity release, solicitation or promotional material, or advertisement without the prior written consent of the other. This prohibition includes use of the other's name, trademarks or logos or any other reference to the other party directly or indirectly in any advertising, sales presentation, news release, release to any professional or trade publication or for any other purpose. Each party may withhold consent under this Section in its sole discretion.

29. HEADINGS. The headings in this Agreement are for purposes of reference only and shall not in any way limit or otherwise affect the meaning or interpretation of any of the terms hereof.



30. SEVERABILITY. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the unaffected provisions of this Agreement shall be unimpaired and remain in full force and effect. CloudWyze and Customer shall negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.

31. INTERPRETATION OF AGREEMENT. No provision of these Terms will be interpreted in favor of Customer or against CloudWyze by reason of the fact that CloudWyze has drafted this Agreement. Unless otherwise stated, the words “herein,” “hereunder” and other similar words refer to this Agreement as a whole and not to any particular Section or other subdivision. The words “include” and “including” shall not be construed as terms of limitation.

32. GOVERNING LAW. This Agreement shall be construed and enforced in accordance with, and validity and performance hereof shall be governed by, the laws of the State of North Carolina.

33. PERFORMANCE PENDING OUTCOME OF DISPUTES. (a) Pending the resolution of any bona fide dispute or controversy arising under this Agreement, and subject to Customer continuing to meet all other obligations under this Agreement (e.g. payment terms), CloudWyze shall continue to perform its obligations hereunder and shall not discontinue, disconnect, or in any other fashion cease to provide all or any substantial portion of the Products and Services to Customer unless otherwise directed by Customer. (b) This Section shall not apply where (i) Customer is in default under this Agreement or (ii) the dispute or controversy between parties relates to harm to the CloudWyze network allegedly caused by Customer and Customer does not immediately cease and desist from the activity giving rise to the dispute or controversy.

34. ENTIRETY OF AGREEMENT. This Agreement constitutes the entire Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations between the parties, whether written or oral, with respect to the subject matter hereof. For clarification, the terms set forth in this Agreement shall supersede the service specific agreements, to the extent of any conflict between the terms of this Agreement and such service specific agreement, and including without limitation, terms relating to term/termination, payment terms, limitations of liability, indemnification and warranty disclaimers and limitations. This Agreement and any other agreement between the parties may be amended only in a writing signed by each of the parties.



TERMS SPECIFIC TO INTERNET SERVICE ORDERS

1. CUSTOMER RESPONSIBILITIES. Customer acknowledges and agrees that Customer will take reasonable precautions to prevent others from gaining unauthorized access to Customer's Internet Service account. Customer is responsible for all activities taking place under Customer's Internet Service account. Customer must (a) provide accurate and complete Internet Service sign-in and registration information, (b) provide all equipment (i.e., an internet-enabled device that meets the technical specifications for the Internet Service) to connect to the Internet Service, (c) protect the password, username, and security information used by Customer to access the Internet Service, (d) notify CloudWyze immediately of any unauthorized use of Customer's Internet Service account, and (e) comply with all applicable local, state, federal, and international laws and regulations, including copyright and intellectual property rights laws, in Customer's use of the Internet Service.



TERMS SPECIFIC TO PHONE SERVICE ORDERS

1. 911 EMERGENCY DIALING. CloudWyze 911 Dialing will be implemented and operational with the Phone Service. The Phone Service may not be used in any geographical area different from that reported to CloudWyze as Customer's Installation Site in the Master Agreement. With E911 service, when Customer dials 911, Customer's telephone number and registered address is simultaneously sent to the local emergency center assigned to Customer's location, and emergency operators have access to the information they need to send help and call Customer back if necessary. By using this Service, Customer authorizes CloudWyze to disclose Customer's name and address to third-parties involved with providing 911 Dialing to Customer, including, without limitation, call routers, call centers, and local emergency centers. Customers in locations where the emergency center is not equipped to receive Customer's telephone number and address have basic 911. With basic 911, the local emergency operator answering the call will not have Customer's call back number or Customer's exact location, so Customer must be prepared to give them this information. Until Customer gives the operator Customer's phone number, he/she may not be able to call Customer back or dispatch help if the call is not completed or is not forwarded, is dropped or disconnected, or if Customer is unable to speak. As additional local emergency centers become capable of receiving customers' information, CloudWyze will automatically upgrade customers with basic 911 to E911 service. CloudWyze will not give Customer notice of such upgrade.

2. REGISTRATION OF PHYSICAL LOCATION REQUIRED. For each phone number that Customer uses for the Phone Service, Customer must register with CloudWyze the physical location where Customer will be using the Phone Service with that phone number. If Customer moves a device associated with such phone number to another location, Customer must register Customer's new location. If Customer does not register Customer's new location, any call Customer makes using the 911 Dialing feature may be sent to an emergency center near Customer's previous address.

3. CONFIRMATION OF ACTIVATION REQUIRED. Customer's 911 Dialing feature will not be activated for any phone line that Customer is using with the Phone Service, unless and until Customer receives an email from CloudWyze confirming that the 911 Dialing feature has been activated for that phone line.

4. OUTAGES DUE TO ELECTRICAL, INTERNET, OR OTHER GENERAL FAILURES. Customer acknowledges that the Phone Service will not function in the absence of electrical power, access to the internet, or other general failures associated with the VOIP network. Customer acknowledges that the Phone Service will not function if there is an interruption of Customer's broadband or high-speed internet access service.

5. NON-VOICE SYSTEMS. Customer acknowledges that the Phone Service is not set up to function without-dialing systems, including home security systems, medical monitoring equipment, satellite television systems, and some facsimile systems. By consenting to these terms and conditions, Customer waives any claim against CloudWyze for interruption or disruption of such systems by the Phone Service.

6. TOLLS. If applicable, every call to or from equipment using the Phone Service that originates or terminates in the Public Switched Telephone Network ("PSTN") is subject to the then-applicable toll charges that are associated with the respective plan ordered by Customer. Every call to or from equipment using the Phone Service that originates or terminates with an SIP service that is not affiliated or associated with CloudWyze will also count as PSTN minutes and be subject to the then-applicable toll charges that are associated with the respective plan ordered by Customer. As applicable, domestic long-distance calls are billed in six (6) second increments. As applicable, calls to a phone number outside the United States and Canada to a non-CloudWyze account will be charged at the current rates published on the CloudWyze related website. The duration of each call from the US to international destination is to be calculated in six



(6) second increments after a thirty (30) second minimum. As applicable, calls to Mexico are rounded to the minute.

7. TELEPHONE NUMBER. Telephone numbers provided by CloudWyze to the Customer shall be leased and not sold. Customer is not to use any such numbers with any other device without the express written permission of CloudWyze. CloudWyze reserves the right to change, cancel, or move such numbers at its sole discretion. If, however, the Customer chooses to 'port' their existing phone number into the CloudWyze VoIP service, the Customer shall also be able to 'port' such number out of the CloudWyze network upon termination of service if the Customer has maintained an account in good standing with CloudWyze.

8. UNLIMITED MINUTE USAGE PLANS; CHANGES TO THE AGREEMENT, SERVICE, OR PLAN. CloudWyze reserves the right to review usage of unlimited minute usage plans to ensure that there is no Customer abuse of such plans. Customer agrees to use unlimited minute plans for normal voice calls and will not employ methods or devices to take advantage of unlimited plans by using service excessively or for means not intended by CloudWyze. CloudWyze may terminate service immediately if, in its sole discretion, Customer is abusively using the unlimited minute plan. CloudWyze reserves the right to make changes to the terms and conditions of this Agreement, the Services and/or the Plan ("Change of Service"). In the event of a Change of Service, CloudWyze will post a notice or a link to such notice on its website currently located at <http://www.cloudwyze.com> Notice will be considered received by Customer, and such changes will become binding to Customer, on the date the changes are posted to the website ("Change Date"), and no additional notice will be required. CloudWyze will post all changes thirty (30) days in advance of the effective date of change, with the exception of international calling rates, which require only twenty-four (24) hours' notice. If Customer does not send CloudWyze notification of its desire to terminate this agreement or uses the Service after the Change Date, Customer is deemed to have accepted and consented to the change of terms and conditions of the Service. If Customer does not consent to the change of service and terminates this agreement, Customer will be responsible for any sums due hereunder in addition to any applicable Disconnection Fee. Customer may request a plan change at any time, subject to any applicable change of service fee and additional terms and conditions. For a plan change to a plan that requires a purchase of equipment, an equipment charge may apply. CloudWyze may decrease prices for phone services or plans without providing any prior notice to Customer.

9. PHONE NUMBERS AND WEB PORTAL DISCONTINUANCE. Upon expiration, cancellation, or termination of the phone service, Customer shall relinquish and discontinue use of any phone numbers, voice mail access numbers, and/or web portals assigned to Customer by CloudWyze or its vendors.



TERMS SPECIFIC TO PRIVATE AND SHARED CLOUD SERVICE ORDERS

1. CONTENT OF TRANSMISSIONS. Customer is solely responsible for the content of any transmissions utilizing Customer's facilities or CloudWyze's facilities. The use of another organization's network or computing resources is subject to its respective permission and usage policies. Customer agrees to comply with all applicable laws with regard to the transmission and use of information and content. Customer further agrees not to use the private cloud services provided hereunder for illegal purposes, to interfere with or disrupt other network users, network services or network equipment.

2. HAZARDS OR INTERFERENCE. Upon notice from CloudWyze, Customer promptly shall eliminate any hazard, interference, or service obstruction that any hardware or software used by Customer, whether or not provided by CloudWyze, causes or is likely to cause. If Customer requests CloudWyze's assistance in removing any such hazard, interference, or service, CloudWyze, for a fee, may but is not required to assist in such removal.

3. NOT A LEASE. Customer's order of CloudWyze's Private Cloud Storage Service is a service agreement and is not intended to and will not constitute a lease of real property. Customer acknowledges and agrees that it has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations, or ordinances.



TERMS SPECIFIC TO EQUIPMENT RENTALS

1. PURCHASE ORDER. To process an order to rent equipment ("Equipment") by Customer, CloudWyze must first receive an executed Purchase Order. CloudWyze shall have no obligation to Customer until such time as a Purchase Order is accepted.

2. LOCATION AND INSPECTION OF EQUIPMENT. Customer agrees not to move any Equipment from the location noted in the respective Purchase Order without CloudWyze's prior written consent. CloudWyze will have the right to enter the premises where the Equipment is located, in order to confirm the existence, condition, and proper maintenance of the Equipment or to remove it pursuant to the terms of this Agreement.

3. TITLE/OWNERSHIP/GRANT OF SECURITY INTEREST. CloudWyze owns the Equipment. Customer covenants to keep the Equipment free and clear of all liens and encumbrances.

4. UNCONDITIONAL PAYMENT OBLIGATION. Customer acknowledges and agrees that Customer is unconditionally obligated to pay all amounts due pursuant to this Agreement no matter what happens, even if the Equipment is damaged or destroyed, if the Equipment is defective, or if Customer no longer can use the Equipment. Customer is not entitled to reduce or set-off against payments or other amounts due to CloudWyze or to anyone to whom CloudWyze transfers this Agreement, whether Customer's claim arises out of the Agreement or any manufacturer's liability, strict liability, negligence, or otherwise.

5. USE AND MAINTENANCE. Customer agrees that this is a commercial transaction and that the Equipment will be used for business purposes only. Customer agrees to keep the Equipment in good repair, condition, and working order, except ordinary wear and tear, and will furnish all parts and servicing required. Equipment supplies and maintenance are not part of this Agreement. Until Customer's obligations hereunder are performed in full, Customer may modify the Equipment only with CloudWyze's prior written consent.

7. PAYMENTS/DOC FEE/NO PREPAYMENT/CREDIT MEMOS. Payments for Equipment are due monthly, beginning on the date set forth in specified in the Master Agreement or any subsequent Purchase Order, or any later date designated by CloudWyze and continuing on the same day of each following month until fully paid. CloudWyze may charge Customer a reasonable fee to cover documentation and investigation costs. If Customer chooses to make any payment due under this Agreement early, Customer will not be entitled to take a discount off of the aggregate amount of the payments to be made to CloudWyze. CloudWyze made an investment in reliance on the stream of cash flows anticipated by the payment schedule set forth in this Agreement. An early payment discounted for interest would frustrate CloudWyze's purpose in extending Customer credit under this Agreement.

8. SECURITY DEPOSIT. If Customer is required to pay CloudWyze a security deposit in respect of any Equipment ("Security Deposit"), as specified in the Master Agreement or any subsequent Purchase Order, CloudWyze may, without further notice to Customer and without prejudice to CloudWyze's other remedies, apply part or all of the Security Deposit toward the cure of any default under this Agreement. In such event, Customer shall, within five (5) business days after written demand, pay CloudWyze an amount equal to the amount so applied to restore the Security Deposit to its original amount. CloudWyze may deposit the Security Deposit into an account with CloudWyze's own funds and commingle it with CloudWyze's assets. Customer is not entitled to receive interest on the Security Deposit and it will be returned to Customer at the end of the term of this Agreement, after CloudWyze applies the Security Deposit to any outstanding amounts due and payable to CloudWyze.



9. REMEDIES. Upon the occurrence of an event of a default, CloudWyzé may, at CloudWyzé's option, require Customer to pay (a) all past due amounts under this Agreement and (b) all future amounts to become due during the unexpired term of this Agreement, discounted at the rate of six percent (6%) per annum. CloudWyzé may directly debit Customer's ACH bank account or charge Customer's credit card for amounts owed. Upon a default, CloudWyzé may also choose to repossess the Equipment. CloudWyzé may also use any other remedies available to CloudWyzé under applicable law. If CloudWyzé repossesses and rents or sells the Equipment to a third party, CloudWyzé will reduce the amount Customer owes by what CloudWyzé receives, less applicable expenses. CloudWyzé may also hold payments made by Customer prior to repossession as liquidated damages and compensation for all expenses incurred by CloudWyzé in retaking the Equipment. Customer acknowledges that CloudWyzé's damages from a default by Customer are difficult to ascertain, and that this amount represents liquidated damages and is not intended as a penalty. These remedies will be applied, to the extent allowed by law, cumulatively. In addition, Customer agrees to pay CloudWyzé all costs and expenses, including reasonable attorney's fees, incurred by CloudWyzé in exercising or attempting to exercise any of CloudWyzé's rights or remedies. A waiver of default shall not be construed as a waiver of any other or subsequent default. Upon a default, Customer hereby appoints CloudWyzé as Customer's attorney-in-fact to do, at Customer's sole expense, all acts required for Customer to perform under this Agreement.

10. CUSTOMER WAIVERS. Customer waives any rights now or hereafter (a) to reject or revoke acceptance of the Equipment or (b) to require CloudWyzé to sell or otherwise use or dispose of the Equipment in mitigation of CloudWyzé's damages. In the event of Customer's default, Customer waives notices of CloudWyzé's intent to accelerate the payments, the acceleration of the payments, and of the enforcement of CloudWyzé's rights hereunder. To the extent Customer is permitted by law, Customer waives all defenses Customer would otherwise have under the Uniform Commercial Code and common law.

11. END OF TERM. At the end of the initial rental period for any Equipment ("End Date"), such rental period will automatically renew for successive twelve (12) month renewal periods unless (a) Customer provides CloudWyzé written notice of Customer's intent to return the applicable Equipment at least sixty (60) days prior to the End Date and (b) Customer timely returns the applicable Equipment to the location designated by CloudWyzé, at Customer's sole expense. If the returned Equipment is not immediately available for use by another without need of repair, Customer will reimburse CloudWyzé for all repair costs. Customer cannot pay off this Agreement or return the Equipment prior to the End Date without CloudWyzé's prior written consent. If CloudWyzé consents, CloudWyzé may charge Customer, in addition to other amounts owed, an early termination fee equal to five percent (5%) of the amount of Customer's Equipment payment obligations under this Agreement.



GENERAL DISCLAIMERS AND LIMITATIONS OF LIABILITY

1. WARRANTY AND LIABILITY LIMITATIONS. CloudWyze makes no warranties, express or implied, including, but not limited to, and implied warranties of merchantability or fitness for a particular purpose. Neither CloudWyze nor its vendors will be liable for unauthorized access to CloudWyze's or Customer's transmission facilities or premise equipment or for unauthorized access to or alteration, theft or destruction of Customer's data files, programs, procedures or information through accident, fraudulent means or devices, or and other method, regardless of whether such damage occurs as a result of CloudWyze's or its vendors' negligence. CloudWyze may elect to provide a refund in lieu of credit, replacement or repair. All warranties cover only defects arising under normal use and do not include malfunctions or failures resulting from misuse, abuse, neglect, alteration, modification, improper installation, or repairs by anyone other than CloudWyze.

2. LIMITATIONS ON LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY PURCHASE ORDER), CLOUDWYZE TOTAL CUMULATIVE LIABILITY TO THE OTHER PARTY UNDER THIS AGREEMENT, OR AT LAW (WHETHER AN ACTION FOR OR ARISING OUT OF BREACH OF CONTRACT, TORT, NEGLIGENCE, INDEMNITY OR OTHERWISE) WILL BE LIMITED TO REPAIR, REPLACEMENT, CREDIT OR REFUND OF THE DIRECT DAMAGES SUFFERED BY CUSTOMER PROVIDED THAT SUCH DAMAGES WILL NOT, IN THE AGGREGATE, BE IN EXCESS OF THE TOTAL FEES PAID (LESS ANY REFUNDS OR CREDITS) BY CUSTOMER TO CLOUDWYZE IN THE TWELVE (12) MONTHS PRIOR TO DATE OF THE CLAIM.

3. DISCLAIMER OF CERTAIN WARRANTIES. In no event shall CloudWyze or its vendors be liable for any special, incidental, indirect, punitive or consequential damages or for any damages, including but not limited to loss of data, loss of revenue or profits, or arising out of or in connection with the use or inability to use services or products provided hereunder whether due to a breach of contract, breach of warranty, the negligence of CloudWyze or its vendors or otherwise.

4. EXCEPTIONS. Nothing contained in subsection 1 shall limit either party's liability to the other for (i) negligence, willful or intentional misconduct; or (ii) injury or death, or damage to tangible real or tangible personal property or the environment, when proximately caused by CloudWyze's or Customer's negligence or that of their respective agents, subcontractors or employees, nor shall anything contained in this Section limit CloudWyze's intellectual property indemnification obligations under Section 223.



**ADDITIONAL DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR
INTERNET SERVICE ORDERS**

THE INTERNET SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, WHATSOEVER INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES THAT ARE IMPLIED BY, AND INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION UNDER, THE LAWS APPLICABLE TO THESE TERMS AND CONDITIONS. CLOUDWYZE MAKES NO WARRANTIES THAT THE INTERNET SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, SECURE, OR FREE OF VIRUSES, WORMS, DISABLING CODE OR CONDITIONS, OR THE LIKE, OR THAT THE INTERNET SERVICE WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH, OR THROUGHPUT RATE. THE INTERNET SERVICE SHOULD NOT BE RELIED ON FOR CRITICAL USES. THE INTERNET SERVICE USES RADIO TRANSMISSIONS, SO CUSTOMER MAY NOT BE ABLE TO USE THE INTERNET SERVICE IF CUSTOMER'S WIRELESS DEVICE IS NOT WITHIN RANGE OF AN AVAILABLE ACCESS POINT. EVEN WITHIN A COVERAGE AREA, THERE ARE MANY FACTORS THAT MAY IMPACT AVAILABILITY AND QUALITY OF THE INTERNET SERVICE, INCLUDING NETWORK CAPACITY, TERRAIN, TREES, PLACEMENT OF BUILDINGS, AND THE CHARACTERISTICS OF CUSTOMER'S WIRELESS DEVICE AND ANY DEVICE TO WHICH IT IS ATTACHED. DATA DELAYS AND OMISSIONS MAY OCCUR. CLOUDWYZE MAKES NO WARRANTIES AS TO THE SECURITY OF CUSTOMER'S COMMUNICATIONS VIA THE INTERNET SERVICE OR THAT THIRD PARTIES WILL NOT GAIN UNAUTHORIZED ACCESS TO OR MONITOR CUSTOMER'S COMPUTER(S) OR OTHER DEVICES OR ONLINE WIRELESS COMMUNICATIONS. CUSTOMER AGREES THAT NEITHER CLOUDWYZE NOR ANY OF CLOUDWYZE'S AFFILIATES OR SUBSIDIARIES, OR ANY OF ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS (COLLECTIVELY, THE "CLOUDWYZE PARTIES") WILL HAVE ANY LIABILITY FOR ANY SUCH UNAUTHORIZED ACCESS. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT CUSTOMER'S USE OF THE INTERNET SERVICE IS AT CUSTOMER'S SOLE RISK AND THAT CUSTOMER IS SOLELY RESPONSIBLE FOR SECURING CUSTOMER'S EQUIPMENT AND COMMUNICATIONS.



**ADDITIONAL DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR
EQUIPMENT RENTALS**

CUSTOMER AGREES THAT CLOUDWYZE HAS NOT MANUFACTURED THE EQUIPMENT OR SOLD IT, AND THAT CUSTOMER HAS SELECTED THE EQUIPMENT BASED UPON CUSTOMER'S OWN JUDGMENT. CUSTOMER HAS NOT RELIED ON ANY STATEMENTS BY CLOUDWYZE OR CLOUDWYZE'S EMPLOYEES. CLOUDWYZE HAS NOT MADE AND DOES NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION, ANY CLAIM THAT CUSTOMER HAS OR MAY HAVE AGAINST THE EQUIPMENT MANUFACTURER, INCLUDING ANY CLAIMS CONCERNING THE EQUIPMENT'S MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, DESIGN, CONDITION, DURABILITY, OPERATION, QUALITY OF MATERIALS OR WORKMANSHIP, OR COMPLIANCE WITH SPECIFICATIONS OR APPLICABLE LAW.

Customer is aware of the manufacturer of the Equipment and Customer will contact the manufacturer for a description of Customer's warranty rights, if any. CloudWyze assigns to Customer any warranties given to CloudWyze. Customer will look solely to the manufacturer of the Equipment to settle any disputes and for performance under any disputes related to the Equipment. CloudWyze disclaims any liability to Customer or third parties for loss, damage, or injury of any kind, including direct, special, incidental, actual, or consequential damages to Customer or third parties resulting from the installation or use of Equipment or from failure to deliver the Equipment. In the event the limitation of liability herein is disregarded by a court of competent jurisdiction, in no event will CloudWyze's aggregate liability under this Agreement exceed the amounts received by CloudWyze hereunder for the affected Equipment that gives rise to the claim.



**ADDITIONAL DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR
OTHER VENDOR PRODUCTS**

DISCLAIMER OF WARRANTY. CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF ANY PRE-EXISTING OR NEWLY PURCHASED EQUIPMENT AND/OR SOFTWARE FROM VENDORS OTHER THAN CLOUDWYZE ("OTHER VENDOR PRODUCTS"), AND USES THE SAME AT ITS OWN RISK, AND FOR ACCESS TO AND SECURITY OF SUCH OTHER VENDOR PRODUCTS AND FOR CUSTOMER'S NETWORK. CLOUDWYZE EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE APPLICATIONS OR CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND CLOUDWYZE EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH APPLICATIONS OR CONTENT. USE OF OTHER VENDOR PRODUCTS IS PROVIDED "AS IS, WITH ALL FAULTS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY CLOUDWYZE, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. CLOUDWYZE DOES NOT REPRESENT OR WARRANT THAT ITS SERVICES WHEN USED WITH OTHER VENDOR PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF QUALITY OR WITHOUT LOSS OF CONTENT, DATA OR INFORMATION, OR THAT ANY MINIMUM TRANSMISSION SPEED, BANDWIDTH, OR THROUGHPUT RATE IS GUARANTEED AT ANY TIME.

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