

## **TERMS AND CONDITIONS TO SERVICE AGREEMENT**

1. These terms (“Terms”) apply to Client purchases from Igloo Networking Solutions Inc (“IGLOO”) of services (“**Services**”), as well as licenses for software, hardware, support and maintenance services, and/or subscription services (collectively, “**Product**”). Client hereby engages and retains IGLOO to render Services or provide Product, as specifically set forth and limited in the “**Statement of Work**” or “**SOW**”, or subsequent Statements of Work, or any work order as agreed among the Parties (each a “Work Order”) under such SOW. Except as otherwise stated therein, subsequent SOWs or Work Orders shall be made a part of and subject to the terms contained herein. No Product or Services will be provided under these Terms alone but will require the execution of a written or electronic SOW, or other mutually acceptable Work Order documentation, each of which must be executed by both Parties and, upon such execution, is deemed incorporated in these Terms for all purposes. In the event of any conflict between the Statement of Work and these Terms, the terms of the Statement of Work will prevail over these Terms.

IGLOO may change these Terms at any time. Using the Services after the changes to these Terms become effective, means Client agrees to the new terms. If Client does not agree to the new Terms, Client must notify IGLOO in writing of its objection to the new Terms, and IGLOO has the right to then terminate the Services.

## **2. GENERAL REQUIREMENTS & CONDITIONS.**

**2.1 System.** For the purposes of these Terms, “System” means, collectively, any computer network, computer system, peripheral or device installed, maintained, monitored, or operated by IGLOO pursuant to and further identified in the sow. To avoid a delay or negative impact on our provision of the Services, during the term of each SOW Client agree to refrain from modifying or moving the System, or installing software on the System, unless IGLOO expressly authorizes such activity. IGLOO will not be held responsible or liable for changes made by client without authorization.

**2.2 Maintenance: Updates.** If patches and other software-related maintenance updates (“Update(s)”) are provided under an SOW, IGLOO will install the Updates only if IGLOO has determined, in its reasonable discretion, that the Updates will be compatible with the configuration of the System and materially beneficial to the features or functionality of the affected software or hardware. IGLOO will not be responsible for any downtime or losses arising from or related to the installation or use of any Update, provided that the Update was installed in accordance with the manufacturer or applicable vendor’s instructions.

**2.3 Third-Party Service Providers.** “Third-Party Service Providers” means Services provided by an entity or a Party other than the IGLOO in fulfillment of the SOW requirements whose terms and conditions IGLOO and Client may be legally bound.

Clients right to use the Third-Party Services is subject to Client’s understanding of, compliance with and consent to these Terms and of any Third-Party agreements, which IGLOO does not have authority to vary, alter or amend.

Therefore, IGLOO may utilize a Third-Party Service Provider in its discretion to provide the Services in accordance with these Terms. The Third-Party Provider may require the IGLOO to sign a contract with the Third-Party Provider for its services (“Third-Party Contract”) and the terms of the Third-Party Contract may impose conditions and requirements upon Client. Access to the terms and conditions of any such Third-Party Contract(s) will be provided to Client or appear on our website which identifies the Third-Party Service Provider and a link to its terms and conditions or EULA. Client hereby agrees to review all Third-Party Terms and Conditions, and consent to those Third-Party Terms and Conditions which Client has consented IGLOO to contract upon its behalf.

**2.4 Third-Party Product Vendors-** “Third-Party Product Vendors” means machinery, equipment and/or products inclusive of component parts purchased from vendors in fulfillment of the SOW requirements.

IGLOO does not own certain Third-Party Products and Client’s right to use the Third-Party Products is subject to Client Agreement with IGLOO, and to Client understanding of, compliance with and consent to the terms and conditions of the Third-Party agreements, which IGLOO does not have authority to vary, alter or amend.

IGLOO will use reasonable efforts to assign, transfer and facilitate all warranties (if any) for the Third-Party Product Vendor to Client, but will have no liability whatsoever for the quality, functionality or operability of any Third-Party Products, and IGLOO will not be held liable as an insurer or guarantor of the performance, downtime or usefulness of any Third-Party Product. The Third-Party Product Vendor may require the IGLOO to sign a contract with the Third-Party Product Vendor for its products (“Third-Party Contract”) and the terms of the Third-Party Contract may impose certain conditions and requirements upon Client. Access to the terms and conditions of any such Third-Party Contract(s) will be provided to Client or attached to the SOW which identifies the Third-Party. Client hereby agrees to review all Third-Party terms and conditions, and consent to those Third-Party terms and conditions which

Client has consented IGLOO to contract upon its behalf. Third-Party Product Vendor terms and conditions link of PDF can be found at our website and/or SOW as applicable.

**2.5 Third-Party Support.** If, in IGLOO's discretion, a hardware or software issue requires vendor or OEM support, IGLOO may contact the vendor or OEM (as applicable) on Client's behalf and pass through to Client all fees and costs incurred in that process. If such fees or costs are anticipated in advance or exceed \$100, IGLOO will obtain Client permission before incurring such expenses on Client behalf unless exigent circumstances require otherwise.

**2.6 Subcontractors.** "Subcontractors" means third-party to whom IGLOO contracts to provide specified services to complete the services indicated in the applicable SOW.

**2.7 Conditions of Service.** Client System is eligible for provision of IGLOO's Services as outlined in the SOW or other contractual documents, provided the System is in good condition and IGLOO's serviceability requirements and site environmental conditions are met:

- 2.7.1 Client shall provide adequate workspace, heat, light, ventilation, electric current and outlets, internet, remote access, and long-distance telephone access for use by IGLOO's representatives.
- 2.7.2 IGLOO's representatives shall have, and Client shall provide full access to the System in order to affect the necessary monitoring and/or supplemental services.
- 2.7.3 IGLOO reserves the right to suspend or terminate these Terms or any SOW if, in its sole discretion, conditions at the service site pose a health or safety threat to any of IGLOO's representatives.
- 2.7.4 All equipment, software and licensing to be supported by IGLOO pursuant to these Terms, must be supportable by IGLOO and subject to patching, security updates, and manufacturer provided support.

It is the responsibility of Client to promptly notify IGLOO of any events/incidents that may impact the services defined within these Terms and/or any supplemental service needs.

IGLOO shall provide services as defined in these Terms during IGLOO's regular business hours, unless otherwise specified in any subsequent SOW, or other contract documents, and in accordance with IGLOO's IT Service policies then in effect.

**Client agrees that Client will inform IGLOO, prior to, Client making any modification, installation, or service performed on the System by individuals not employed or contracted by IGLOO in order to assist IGLOO in providing an efficient and effective System support response.**

**Only representatives authorized by IGLOO will be eligible to access and service Client System. Any unauthorized access or service conducted on the System without the explicit consent of IGLOO, which results in negative System performance, will not be covered by the monthly plan fee as documented in the SOW or other contract documents and will be billed according to IGLOO's labor rates as outlined in the SOW.**

IGLOO shall be obligated to provide service only at the Service Site(s) as outlined in the SOW. If Client desires to relocate, add or remove locations, Client shall give appropriate notice to IGLOO of Client's intention to relocate **sixty (60) days** in advance. IGLOO reserves the right to renegotiate service terms with respect to any relocation and/or addition of locations by Client. Such right includes the right to refuse service at the relocation and/or new site.

**2.8 Service Limitations.** In addition to other limitations and conditions set forth in these Terms, the following service and support limitations are expressed:

- 2.8.1 Cost of consumables, replacement parts, hardware, software, network upgrades and associated services are outside the scope of this Agreement. IGLOO will provide consultative specification, sourcing guidance and/or Time and Material/Project offerings.
- 2.8.2 Any unauthorized changes made to the System without IGLOO's written consent which causes issues or failures to the System, are beyond the responsibility of IGLOO and Client will be billed the full cost to restore the System to its original state.

**2.9 Onboarding Process.** Client acknowledges and agrees that IGLOO will have no responsibility for any deficiencies in the current operating systems and infrastructure until the IGLOO has had a reasonable opportunity to conduct a review of the current system and to provide Client with its recommendations, and Client has accepted and implemented same.

**2.10 Offboarding Process.** In the event of termination of Services by either party, IGLOO will make reasonable accommodations to transfer Client's account to Client or Client's new managed service provider or other authorized agent (the "**Onboarding Provider**"). Client shall indemnify and hold harmless IGLOO, its Contracted Subcontractors and their respective

directors, officers, employees, consultants and agents for any claims or losses resulting from the activities of Client or the Onboarding Provider during the transition period from IGLOO to the Onboarding Provider, inclusive of when Client obtains access to all super administrator accounts of their infrastructure.

Transfer will require that Client's account be fully paid at time of transfer inclusive of any offboarding charges.

**2.11 Network Devices, Hardware and Systems:** IGLOO shall only be responsible for providing services to network devices, hardware and systems identified by the Client and IGLOO and set forth and agreed upon SOW's. From time to time, SOW's will be updated with new devices, hardware or systems that have been agreed upon by the parties. Said updated SOW shall be signed by both parties and dated on a quarterly basis or per the request of IGLOO. IGLOO may, in its sole discretion, deny requests to add devices, hardware or systems. The Client shall bear the responsibility to isolate and protect the system by not allowing additional devices, hardware or system on the system unless approved by IGLOO. **IGLOO shall have no responsibility for any devices, hardware or systems or damage resulting therefrom that are added to the System without IGLOO's approval. IGLOO shall have the right to cancel this contract if devices, hardware or systems are added without their approval. If Client obtains new devices, hardware or systems and wishes to request IGLOO's services to extend to new devices, hardware or systems, said extension shall not take effect unless and until both Parties agree in writing to a new SOW.** Said written, signed SOW shall then become an addendum to this contract and incorporated herein. IGLOO reserves the right to deny any requests for additional services and/or additional hardware/systems for any reason in their sole discretion.

**2.12 Authorized Contact(s).** Client understands and agrees that IGLOO will be entitled to rely on any directions or consent provided to IGLOO by any of Client Authorized Contacts, as indicated in an applicable SOW. If no Authorized Contact is identified in an applicable SOW, then Client Authorized Contact will be the person(s) (i) who signed this Agreement, and/or (ii) who signed the applicable SOW. If Client desires to change Client Authorized Contact(s), please notify IGLOO of such changes in writing which, unless exigent circumstances are stated in the notice, will take effect three (3) business days thereafter.

**2.13 Shared Administrator Credentials.** If Client shares server, network, or software application administrative credentials, IGLOO will not be held legally liable or responsible for

any outages, errors, breaches, data loss and misconfiguration since multiple administrators from different companies jeopardizes the integrity of the support outlined in this agreement.

### **3. RESPONSE; REPORTING.**

- 3.1. Response.** IGLOO warrants and represents that IGLOO will provide the Services, and respond to any notification received by IGLOO of any error, outage, alarm or alert pertaining to the System, in the manner and within the time period(s) designated in the applicable SOW (“Response Time”), except for (i) periods of delay caused by Client Downtime (defined below), Vendor-Side Downtime (defined below) or (ii) periods in which IGLOO is required to suspend the Services to protect the security or integrity of Client System or IGLOO’s equipment or network, or (iii) delays caused by a force majeure event.
- 3.2. Scheduled Downtime.** For the purposes of this Agreement, Scheduled Downtime will mean those hours, as determined by IGLOO which will not occur between the IGLOO’s normal business hours of 9:00 AM and 5:00 PM Monday through Friday without Client authorization or unless exigent circumstances exist, during which time We will perform scheduled maintenance or adjustments to Client System. IGLOO will use it’s best efforts to provide Client with at least twenty-four (24) hours of notice prior to scheduling Scheduled Downtime.
- 3.3. Client Downtime.** IGLOO will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Services to the extent that such delays or deficiencies are caused by Client actions or omissions (“Client Downtime”).
- 3.4. Vendor-Side Downtime.** IGLOO will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Services to the extent that such delays or deficiencies are caused by third-party service providers, third-party licensors, or “upstream” service or product vendors.

Client and IGLOO expressly agree that this paragraph is intended to be as broad as permitted by the laws of the State of [State Name] and that this paragraph shall be governed by and interpreted in accordance with the laws of the State of [State Name].

#### **4. CONFIDENTIALITY AND NON-DISCLOSURE.**

- 4.1** Definition of Confidential Information. As used herein, “**Confidential Information**” means all confidential information disclosed by a Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”), in any format whether oral, written, electronic, or other, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.
- 4.2** Client Confidential Information shall include any personally identifiable information or protected health information of Client employees, Client customers, and Client Data. Client acknowledges and agrees that these Terms do not constitute a Business Associates Agreement (“BAA”) as that term is defined in the Health Insurance Portability and Accountability Act (HIPAA; Pub.L. 104–191, 110 Stat. 1936, enacted August 21, 1996 and as amended), and that the requirement for any such agreement in addition to these Terms may be necessary to provide the Services hereunder. Client shall be solely responsible for the consequences, if any, of moving forward with the Services hereunder without such a BAA and shall be the sole judge of the necessity for a BAA in addition to these Terms. Furthermore, Client hereby agrees to defend, indemnify and hold harmless IGLOO and any affiliated company, and IGLOO’s respective present and former shareholders, officers, directors and employees and our attorneys and agents, and our predecessors, successors, insurers, assigns, heirs, executors and administrators (collectively referred to as the “Indemnitee”), from and against any and all claims, demands, causes of action, actions, judgments, liabilities, losses, costs and expenses, including attorneys’ fees and costs, as they occur, brought against, imposed upon, or incurred or suffered by, the Indemnitee which in any way relate to the failure of Client to comply with these Terms in proper handling of protected health information not caused by IGLOO’s gross negligence and/or due to the absence of any necessary BAA, or failing to notify IGLOO of the necessity of same.
- 4.3** Confidential Information of each Party shall include the terms and conditions of these Terms and all SOW’s, and/or other contract documents as well as business and marketing plans, technology and technical information, products, services, product plans and designs, trade secrets, and business processes disclosed by such Party.
- 4.4** Confidential Information (other than Client Data) shall not include any information that:  
(i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party,

(ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party,

(iii) is received from a third-party without breach of any obligation owed to the Disclosing Party, or

(iv) was independently developed by the Receiving Party.

**4.5 Protection of Confidential Information.** The Receiving Party shall:

(i) protect and safeguard the confidentiality of all Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care,

(ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement or otherwise in any manner to the Disclosing Party's detriment, and

(iii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, subcontractors and agents who need such access for purposes consistent with this Agreement.

**4.6 Non-disclosure.** Neither Party shall disclose these Terms or any SOW and/or other contract documents to any third-party other than its affiliates, legal counsel, and accountants without the other Party's prior written consent.

**4.7 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

**4.8** If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a Party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the

Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

**4.9 Return or Destruction of Confidential Information.** Upon request, each Party agrees to promptly return the other Party's Confidential Information in its possession, custody or control, or to certify the deletion or destruction of Confidential Information; provided, however, that the Receiving Party may retain a copy of any Confidential Information to the extent (a) required by applicable law or (b) it would be unreasonably burdensome to destroy. In the event that return or destruction of Confidential Information is unduly burdensome, or not feasible, the Parties shall extend the protections of these Terms to the retained Confidential Information.

**5. PROVISION OF MATERIALS AND SERVICES TO IGLOO.** Client agrees to timely furnish, at Client's own expense, all personnel, all necessary computer hardware, software and related materials and appropriate and safe workspaces for purposes of IGLOO or its contracted subcontractors, performing the Services. Client will also provide IGLOO or its contracted subcontractors, with access to all information, passwords and facilities requested by IGLOO that is necessary for IGLOO or its contracted subcontractors, to perform the Services. Access may be denied for any reason at any time, however if access to information, passwords or facilities is denied, Client understands that IGLOO or its contracted subcontractors, may be unable to perform their duties adequately. and if such a situation should exist, Client will hold the IGLOO harmless.

**6. RESPONSIBILITY FOR EQUIPMENT.** Client acknowledges that from time to time (a) IGLOO may identify additional items that need to be purchased by Client, and (b) changes in Client system may be required in order for IGLOO to meet Client requirements. In connection therewith, Client agrees to work in good faith with IGLOO to effectuate such purchases or changes, and such changes shall be set forth in a new SOW. If IGLOO is required to purchase any assets, including computer hardware and/or software, in connection with IGLOO providing the Services, all such assets will remain the sole property of IGLOO, except that assets sold by IGLOO to Client or procured by IGLOO on Client's behalf shall be the sole property of Client. Client will take such reasonable precautions to ensure the quality, completeness and workmanship of any item or equipment or hardware furnished by Client, and for ensuring that the materials provided to IGLOO or its contracted subcontractors, do not infringe or violate the rights of any third-party. Unless otherwise specified in the Scope of Work and/or other contract documents that it is not the intent, nor does the IGLOO provide any type of backup of Client data. Client will maintain adequate backup for all data and other items furnished to IGLOO.

It is the Customers responsibility for any failure or malfunction of electrical or telecommunications infrastructure or services that causes damage to IGLOO's products or services and IGLOO disclaims all responsibility for any loss including data.

**7. CLIENT DATA OWNERSHIP AND RESPONSIBILITY.** Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of any data, information or material proprietary submitted by Client to IGLOO.

**8. INTELLECTUAL PROPERTY.** IGLOO retains all intellectual property rights in any property invented or composed in the course of or incident to the performance of this Agreement, as well as any software, materials, or methods created prior to or after conclusion of any work "Intellectual Property". Client acquires no right or interest in any such intellectual property, by virtue of this Agreement or the work performed under this Agreement.

**8.1.** Client may only use and disclose Intellectual Property in accordance with the terms of this Agreement and applicable SOW and/or other contract documents. IGLOO reserves all rights in and to the Intellectual Property not expressly granted in this Agreement. Client may not disassemble or reverse engineer any Intellectual Property or decompile or otherwise attempt to derive any software source code within the Intellectual Property from executable code, except to the extent expressly permitted by applicable law despite this limitation or provide a third-party with the results of any functional evaluation, or benchmarking or performance tests on the Intellectual Property, without IGLOO's prior written approval. Except as expressly authorized in these Terms or an SOW and/or other contract documents, Client may not (a) distribute the Intellectual Property to any third-party (whether by rental, lease, sublicense or other transfer), or (b) operate the Intellectual Property in an outsourcing or IGLOO business to process the data of third parties. Additional usage restrictions may apply to certain third-party files or programs embedded in the Intellectual Property - applicable installation instructions or release notes will contain the relevant details.

**8.2. License Agreements.**

**(a) License.** Subject to these Terms, IGLOO grants Client a perpetual, non-exclusive, non-transferable license to use all programming, documentation, reports, and any other product provided as part of the Services solely for Client own internal use. At all times, all software on the System must be genuine and licensed, and Client agrees to provide IGLOO with proof of such licensing upon it's request. If IGLOO requires Client to implement certain minimum

hardware or software requirements (“Minimum Requirements”), Client agrees to do so as an ongoing requirement of IGLOO providing its Services to Client.

**(b) Software Installation or Replication.** If IGLOO is required to install or replicate Client software as part of the Services, Client will independently verify that all such software is properly licensed. Client act of providing any software to IGLOO will be deemed Client affirmative acknowledgement to IGLOO that Client have a valid license that permits IGLOO to perform the Services related thereto. In addition, Client will retain the duty and obligation to monitor Client equipment for the installation of unlicensed software unless IGLOO in a written statement of work (“SOW”) expressly agrees to conduct such monitoring. Customer will indemnify and hold harmless IGLOO against all damages and expenses it may incur (including reasonable attorney’s fees and disbursements) related to Customer providing infringing materials to IGLOO or any Customer breach of this Section.

**(c) Pre-Existing License Agreements.** Any software product provided to Client by IGLOO as a reseller for a third-party, which is licensed to Client under a separate software license agreement with such third-party, will continue to be governed by the third-party license agreement.

**(d) EULA.** Portions of the Services may require Client to accept the terms of one or more third-party end user license agreements (“EULAs”). If the acceptance of a EULA is required to provide the Services to Client, then Client hereby grants IGLOO permission to accept the EULA on Client behalf. EULAs may contain service levels, warranties and/or liability limitations that are different than those contained in these Terms. Client agrees to be bound by the terms of such EULAs and will look only to the applicable third-party provider for the enforcement of the terms of such EULAs. If, while providing the Services, IGLOO is required to comply with a third-party EULA and the third-party EULA is modified or amended, IGLOO reserves the right to modify or amend any applicable SOW with Client to ensure its continued compliance with the terms of the third-party EULA. Client agrees to hold harmless and Indemnify IGLOO against Client violation of any of the terms and conditions included in the subject EULA.

**8.3. Third-Party Products.** Unless otherwise stated in an SOW, all hardware, software, peripherals or accessories purchased through IGLOO (“Third-Party Products”) are nonrefundable once the applicable SOW is placed in our queue for delivery. IGLOO will use reasonable efforts to assign, transfer and facilitate all warranties (if any) and service level commitments (if any) for the Third-Party Products to Client, but will have no liability whatsoever for the quality, functionality or operability of any Third- Party Products, and

IGLOO will not be held liable as an insurer or guarantor of the performance, uptime or usefulness of any Third-Party Products. Unless otherwise expressly stated in a SOW, all Third-Party Products are provided “as is” and without any warranty whatsoever as between IGLOO and Client (including but not limited to implied warranties).

**9. IGLOO’S EMPLOYEE’S, AGENTS OR SUBCONTRACTORS.** Client acknowledges that IGLOO has incurred substantial recruitment, screening, training, and administrative expenses with respect to its agents, including its employees, vendors and independent subcontractors. From the Effective Date of the last SOW and up to one (1) calendar year after the date of termination of any SOW, Client shall not hire or contract directly or indirectly with any of the IGLOO’s employees, agents or subcontractors who have communicated with and/or worked on any Service for Client. Client and IGLOO mutually acknowledge and agree that it would be impractical and extremely difficult to ascertain the amount of monetary damages that would be caused by a breach by Client of this provision. Therefore, Client and IGLOO mutually agree that in the event of a breach by Client in any way of this provision, Client shall pay to IGLOO as liquidated damages, an amount equal to One Hundred Fifty Thousand Dollars (\$150,000.00). this amount is an effort by both parties to properly and reasonably assess the damages that IGLOO would suffer as a direct result of a breach by Client, taking into account the following facts and circumstances: (a) an average employee working for IGLOO will generate significant net revenue for the IGLOO and remain employed by the IGLOO for an extended period of time; (b) IGLOO will lose significant revenue and incur significant costs in connection with attempting to replace such employee; (c) there is no guarantee that such employee can be replaced; and (d) accurately assessing the value of such employee to the IGLOO upon such breach is virtually impossible. In light of these circumstances, Client and IGLOO mutually agree that this liquidated damages provision represents reasonable compensation to IGLOO for the losses that it would incur due to any such breach. Client and IGLOO further acknowledge and agree that nothing in this paragraph shall limit IGLOO’s rights to obtain injunctive relief or any other damages including, but not limited to punitive, consequential, special, or any other damages, as may be appropriate in connection with Client breach of this section.

**10. WARRANTY.** IGLOO warrants that it or its contracted subcontractors, will perform the services substantially in accordance with the specifications set forth whether under these Terms, SOW, and/or other contract documents or otherwise in connection with any of them. For any breach of the foregoing warranty, IGLOO or its contracted subcontractors, will exercise commercially reasonable efforts to re-perform any non-conforming services that were performed within the ten (10) business day period immediately preceding the date of Client’s written notice to IGLOO specifying in reasonable detail such non-conformance. If IGLOO concludes that conformance is impracticable, then IGLOO will refund all fees paid by Client to IGLOO hereunder, if any, allocable to such nonconforming Services.

Notwithstanding any provision to the contrary in these Terms, any warranty offered and provided directly by IGLOO product shall be deemed null and void if the applicable product is (i) altered, modified or repaired by persons other than IGLOO, including, without limitation, the installation of any attachments, features, or devices not supplied or approved by IGLOO (ii) misused, abused, or not operated in accordance with the specifications of IGLOO or the applicable manufacturer or creator of the hardware or product, or, (iii) subjected to improper site preparation or maintenance by persons other than IGLOO or persons approved or designated by IGLOO.

Notwithstanding the above, IGLOO does not warrant its products or services beyond a reasonable standard or skill consistent with industry standards. IGLOO does not guarantee or promise any cost savings, profits, or returns on investment, delay in delivery or performance.

**11. SOFTWARE HARDWARE & SECURITY.** Client understands and agrees that data loss or network failures may occur, whether or not foreseeable. In order to reduce the likelihood of a network failure Client must maintain proper security for Client System including software and hardware updates. Client will adhere to software and hardware updates and maintain specific security standards, policies, procedures set forth by the NIST Cybersecurity Framework available at <https://www.nist.gov/cyberframework>.

**12. CLIENT CYBER SECURITY.** It is understood that within the Services provided, it is not the intent, nor does the IGLOO provide any type of internet security monitoring, cyber security monitoring, cyber terrorism monitoring, or other cyber threats for Client unless otherwise specified in the SOW. As cyber threats are always evolving it is strongly recommended that Client engage the services of a cyber protection third-party vendor to monitor the cyber controls and cyber activities in Client System. In no event, including the negligent act or omission on its part, shall IGLOO, whether under these Terms, an SOW, or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if such loss was the result of or arose from any act of terrorism, strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, or any action taken in controlling, preventing or suppressing any of these things, including any such act or series of acts of any person or group(s) or persons, whether acting alone or on behalf of or in connection with any organization(s), committed for political, religious or ideological purposes including but not limited to the

intention to influence any government and/or to put the public in fear for such purposes by using activities perpetrated electronically that are directed towards the destruction, disruption or subversion of communication and information systems, infrastructure, computers, telecommunications or electronic networks and/or its content thereof or sabotage and or threat therefrom.

**13. REGULATORY COMPLIANCE.** Any software or service provided by IGLOO is not intended to bring Client into full regulatory compliance with any rule, regulation, National Standard or requirement. The software, service, or solutions may aid Client's efforts to achieve regulatory compliance, however, IGLOO does not provide comprehensive compliance solutions.

**14. TELEMARKETING & UNSOLICITED EMAILS.** In no event, including the negligent act or omission on its part, shall IGLOO or its contracted subcontractors, whether under these Terms, an SOW, other work order or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if Client data is breached because of the distribution of unsolicited email, direct mail, facsimiles, telemarketing or because of the collection of information by means of any form of electronic malware, wiretapping, bugging, video cameras or identification tags.

**15. EXTRAORDINARY EVENTS.** In no event shall IGLOO or its contracted subcontractors, whether under these Terms, an SOW, other work order or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if such loss was the result of or arose from any failure or malfunction of electrical, mechanical or telecommunications infrastructure and equipment or services, any satellite failure, or from any fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God, national or global pandemic, or other physical event.

**16. RELEASE WITH LIMITATION OF LIABILITY. THIS PARAGRAPH LIMITS THE LIABILITIES ARISING UNDER THESE TERMS OR ANY SOW AND IS A BARGAINED-FOR AND MATERIAL PART OF THESE TERMS. CLIENT ACKNOWLEDGE AND AGREE THAT IGLOO WOULD NOT ENTER INTO THESE TERMS UNLESS IT COULD RELY ON THE LIMITATIONS DESCRIBED IN THIS PARAGRAPH.**

**CLIENT AND ANY OF CLIENT AFFILIATES AND EACH OF THEIR RESPECTIVE AGENCIES, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, NOMINEES, CONSULTANTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE “RELEASOR PARTIES”) AGREES TO THE FULLEST EXTENT PERMITTED BY LAW AND EXCEPT AS OTHERWISE NOTED IN THESE TERMS, AGREES TO RELEASE IGLOO AND ANY OF THEIR AFFILIATES AND EACH OF THEIR RESPECTIVE AGENCIES, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, SHAREHOLDERS, NOMINEES, CONSULTANTS, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE “RELEASED PARTIES”) FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES. IGLOO’S AGGREGATE LIABILITY RELATING TO ANY OF THE SERVICES SHALL BE QUANTIFIED IN THE SOW OR OTHER CONTRACT DOCUMENTS. TERMS OR AS DESCRIBED IN THE SOW. IGLOO SHALL NOT BE LIABLE TO CLIENT FOR ANY DELAY IN DELIVERY OR PERFORMANCE, OR FAILURE TO DELIVER OR PERFORM AT OR WITHIN THE DEADLINES SET FORTH IN THESE TERMS.**

**17. MUTUAL INDEMNIFICATION AND HOLD HARMLESS. EACH PARTY AGREES TO THE FULLEST EXTENT PERMITTED BY LAW SHALL AT ALL TIMES DEFEND, INDEMNIFY, PAY, SAVE AND HOLD THE OTHER PARTIES AND ANY OF THEIR AFFILIATES AND EACH OF THEIR RESPECTIVE AGENCIES, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, NOMINEES, SUBCONTRACTORS, CONSULTANTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE “MUTUALLY INDEMNIFIED PARTIES”) HARMLESS FROM EACH AND ANY AND ALL LIABILITIES, DAMAGES (INCLUDING, WITHOUT LIMITATION, DIRECT, SPECIAL AND CONSEQUENTIAL DAMAGES), COSTS, EXPENSES, SUITS, CIVIL OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING, LOSSES, CLAIMS, ACTIONS, VIOLATIONS, FINES AND PENALTIES (INCLUDING WITHOUT LIMITATION, COURT COSTS, REASONABLE ATTORNEY’S FEES AND ANY OTHER REASONABLE COSTS OF LITIGATION) (HEREINAFTER COLLECTIVELY, THE “CLAIMS”) THAT ANY OF THE MUTUALLY INDEMNIFIED PARTIES MAY SUFFER, SUSTAIN OR INCUR TO THE EXTENT CAUSED BY THE NEGLIGENCE OF THE MUTUALLY INDEMNIFIED PARTIES ARISING OUT OF THESE TERMS.**

**THE PRECEDING INDEMNIFICATION OBLIGATIONS ARE CONDITIONED ON ANY OF THE INDEMNIFIED PARTIES: (I) NOTIFYING THE INDEMNIFYING PARTY PROMPTLY IN WRITING OF SUCH ACTION; (II) REASONABLY COOPERATING AND ASSISTING IN SUCH DEFENSE; AND (III) GIVING SOLE CONTROL OF THE DEFENSE AND ANY RELATED SETTLEMENT NEGOTIATIONS TO THE INDEMNIFYING PARTY WITH THE UNDERSTANDING THAT THE INDEMNIFYING PARTY MAY**

**NOT SETTLE ANY CLAIM IN A MANNER THAT ADMITS GUILT OR OTHERWISE PREJUDICES THE INDEMNIFIED PARTY, WITHOUT CONSENT.**

**18. IGLOO INSURANCE.** IGLOO agrees to maintain sufficient insurance coverage to enable it to meet its obligations created by these Terms and by law. Without limiting the foregoing, to the extent this Agreement creates exposure generally covered by the following insurance policies, IGLOO will maintain at its own sole cost and expense at least the following insurance covering its obligations under this Agreement: (a) Commercial General Liability including (i) bodily injury, (ii) property damage, (iii) contractual liability coverage, and (iv) personal injury, in an amount not less than One Million Dollars (\$1,000,000) per occurrence; (b) Business Automobile Liability for hired and non-owned vehicles in an amount of not less than One Million Dollars (\$1,000,000) for each accident; (c) Workers Compensation at statutory limits; and (d) Professional Liability Insurance covering errors and omissions and wrongful acts in the performance of the Services. Such insurance will bear a combined single limit per occurrence of not less than One Million Dollars (\$1,000,000). IGLOO shall have Client included in the Professional Liability policy as an additional insured. Such status will provide protection, subject to the policy terms and conditions, where liability is imposed on Client as a result of the wrongful act of IGLOO.

**19. CLIENT INSURANCE.**

- 19.1. Commercial Property Insurance.** Client shall secure at Client own cost and expense Property Insurance for Client equipment that is part of the provisions of the service agreement.
- 19.2. Cyber Insurance.** Client shall secure and maintain for the duration of the contract Cyber Liability Insurance to insure Client cyber exposures. Specific limits and coverages should be evaluated by a qualified insurance broker or risk manager to determine Client specific coverage and policy limit requirements. A minimal \$1,000,000 Policy per occurrence/aggregate limit is required.
- 19.3. Mutual Waiver of Subrogation.** TO THE EXTENT PERMITTED BY LAW, EACH PARTY WAIVES ALL RIGHTS AGAINST THE OTHER FOR RECOVERY OF DAMAGES TO THE EXTENT THESE DAMAGES ARE COVERED BY THE WORKERS COMPENSATION (TO THE EXTENT PERMITTED BY LAW) AND EMPLOYERS LIABILITY, PROFESSIONAL LIABILITY, GENERAL LIABILITY, PROPERTY INSURANCE, COMMERCIAL UMBRELLA/EXCESS, CYBER OR OTHER COMMERCIAL LIABILITY INSURANCE OBTAINED BY EITHER PARTY. CLIENT WILL NOT HOLD IGLOO ITS SUBCONTRACTORS AND/OR THIRD-PARTY SERVICE PROVIDERS RESPONSIBLE FOR SUCH LOSSES AND WILL CONFIRM THAT CLIENT

INSURANCE POLICIES REFERENCED ABOVE PROVIDE FOR THE WAIVER OF SUBROGATION INCLUDED IN THE TERMS OF SERVICE.

**20. DISCLAIMERS.** The express remedies set forth in these Terms will constitute Client's exclusive remedies, and IGLOO's sole obligation and liability, for any claim (a) that a Service or deliverable provided hereunder does not conform to specifications or is otherwise defective, or (b) that the Services were performed improperly.

EXCEPT FOR THE WARRANTIES MADE BY IGLOO IN SECTION 10, WHICH ARE LIMITED WARRANTIES AND THE ONLY WARRANTIES PROVIDED TO CLIENT, THE SERVICES AND DELIVERABLES ARE PROVIDED STRICTLY "AS-IS." IGLOO DOES NOT MAKE ANY ADDITIONAL WARRANTIES, EXPRESSED, IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, AS TO THE DELIVERABLES OR SERVICES PROVIDED HEREUNDER, OR ANY MATTER WHATSOEVER. THE PARTIES DISCLAIM ALL WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE AND NON-INFRINGEMENT.

IGLOO DOES NOT WARRANT THAT THE SERVICES OR ANY DELIVERABLES WILL MEET ANY OF CLIENT REQUIREMENTS NOT SET FORTH HEREIN, THAT ANY DELIVERABLES WILL OPERATE IN THE COMBINATIONS THAT CLIENT MAY SELECT FOR USE, THAT THE OPERATION OF ANY DELIVERABLES WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. IF PRE-PRODUCTION (E.G., "ALPHA" OR "BETA") RELEASES OF SOFTWARE ARE PROVIDED TO CLIENT, SUCH COPIES ARE PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND.

No statement by any IGLOO employee or agent, orally or in writing, will serve to create any warranty or obligation not set forth herein or to otherwise modify these Terms in any way whatsoever.

**21. SEVERABILITY.** If any provision of these Terms is determined by a court of competent jurisdiction to be illegal or unenforceable, such provision shall be automatically reformed and construed so as to be valid, operative and enforceable, to the maximum extent permitted by law or equity while preserving its original intent. The invalidity of any part of these Terms shall not render invalid the remainder of the Terms.

**22. AMENDMENT.** These Terms may not be amended except by a writing executed by an authorized individual of the IGLOO.

**23. RELATIONSHIP.** The Parties are independent parties; and these Terms do not make the Parties principal and agent, partners, employer and employee; nor does it create a joint venture. It is further understood that there is no relationship, including but not limited to a partnership, joint venture, subcontractor or other commission-based relationship, between any party that referred IGLOO or Client to the other party to these Terms.

**24. LAW.** These Terms shall be governed by and construed in accordance with the laws of the Province of Ontario and the Federal Laws of Canada applicable therein without reference to principles of conflicts of laws. The Parties irrevocably submit to the exclusive jurisdiction of the courts of the Province of Ontario.

**25. WAIVER.** Failure by either Party to insist upon strict performance of any provision herein shall not be deemed a waiver by such Party of its rights or remedies, or a waiver by it of any subsequent default by the other Party.

**26. FORCE MAJEURE.** Neither party will be liable to the other party for delays or failures to perform its obligations under this Agreement or any SOW because of circumstances beyond such party's reasonable control. Such circumstances include, but will not be limited to, any intentional or negligent act committed by the other party, or any acts or omissions of any governmental authority, natural disaster, act of a public enemy, acts of terrorism, riot, sabotage, pandemic, disputes or differences with workmen, power failure, communications delays/outages, delays in transportation or deliveries of supplies or materials, cyberwarfare, cyberterrorism, or hacking, malware or virus-related incidents that circumvent then-current anti-virus or anti-malware software, and acts of God.

**27. DATA ACCESS/STORAGE.** Depending on the Service provided, a portion of Client data may occasionally be accessed or stored on secure servers located outside of Canada. Client agree to notify IGLOO if Client company requires IGLOO to modify Our standard access or storage procedures.

**28. ASSIGNMENT.** Client may not assign Client rights or obligations under these Terms without IGLOO's prior written consent which shall not be unreasonably withheld.

**THIRD-PARTY TERMS AND CONDITIONS TO SERVICE AGREEMENT**

**Dell Terms and Conditions**

URL: <https://www.dell.com/learn/ca/en/cacorp1/terms-of-sale>

**Barracuda Terms and Conditions**

URL: <https://www.barracuda.com/company/legal/terms-and-conditions>

**Microsoft Terms and Conditions**

URL: <https://www.microsoft.com/en-ca/servicesagreement/>

**Qualys Terms and Conditions**

URL: <https://www.qualys.com/company/community-terms-of-use/>

**SonicWALL Terms and Conditions**

URL: <https://www.sonicwall.com/legal/terms-of-use/>

**Avast Terms and Conditions**

URL: <https://www.avast.com/en-ca/eula#pc>

**3CX Terms and Conditions**

URL: <https://www.3cx.com/company/terms-and-conditions/>