

# CloudBox

## End User License Agreement

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Last Modified: [03/02/2025]

Contact: [contact@cloudboxapp.com](mailto:contact@cloudboxapp.com)

### Acceptance of Terms

PLEASE READ THIS DOCUMENT CAREFULLY. IT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, INCLUDING LIMITATIONS AND EXCLUSIONS THAT MIGHT APPLY TO YOU.

This Service Agreement and any documents expressly incorporated by reference herein (collectively, the **"Agreement"**) supplements our Website Terms of Use (available at <https://www.cloudboxapp.com/policy/terms-of-service>) and governs all access to and use of hardware products, as outlined in **Exhibit A**, and software services provided by Triton Equities, LLC, doing business as CloudBox (referred to herein as **"Provider"**) through the Internet or other authorized network (the **"Services"**). By purchasing, subscribing, accessing or otherwise using the Services, you (referred to herein as **"Customer"**) agree to be bound by this Agreement, which is effective upon the earliest date of purchase, subscription, access, or use of the Services (the **"Effective Date"**).

### 1. Consideration

In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Provider and Customer (each a **"Party"** and collectively the **"Parties"**) agree to the following Terms & Conditions.

### 2. Terms & Conditions

#### 2.1. Purchase Orders

Customer may purchase the Services through a written purchase order signed by both Parties or through electronic means made available by the Provider (each a **"Purchase Order"**), provided that such Purchase Order references this Agreement. The Purchase Order may specify the initial term of the Services (the **"Initial Term"**), any renewal term (the **"Renewal Term"**) (collectively, together with the Initial Term, the **"Term"**), and the fees to be paid by the Customer for the Services (the **"Fees"**).

If there is any conflict between the terms set forth in a Purchase Order and this Agreement, the terms of the Purchase Order shall control, but only to the extent of such conflict of terms.

## 2.2. Authorized Use

Subject to and conditioned on compliance of Customer and Customer's employees, consultants, contractors, and agents (a) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement; and (b) for whom access to the Services has been purchased hereunder (collectively, "**Authorized Users**") with the terms and conditions of this Agreement, Provider hereby grants Customer a non-exclusive, non-transferable (except in compliance with this Agreement) right to access and use the Services, solely for use by Authorized Users in accordance with the terms and conditions herein.

Customer may use the Services solely for Customer's internal business purposes ("**Authorized Use**").

## 2.3. Documentation

Provider hereby also grants to Customer a non-exclusive, non-sublicensable, non-transferable (except in compliance with this Agreement) license, solely in connection with the Authorized Use during the Term, to use:

- a) any manuals, instructions, or other documents or materials that the Provider provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Services, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof (collectively, the "**Service Documentation**");
- b) any specifications for the Services that the Provider provides or makes available to Customer in any form or medium ("**Specifications**");
- c) any manuals, instructions, or other documents or materials that the Provider provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the information technology infrastructure used by or on behalf of Provider in performing the Services ("**System Documentation**"), including all computers, software, hardware, databases, electronic systems (including database management systems), and networks ("**Provider Systems**"), whether operated directly by Provider or by an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity that is not a party to this Agreement (a "**Third Party**"); and
- d) any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by Provider in connection

with the Services or otherwise comprise or relate to the Services or Provider Systems ("**Ancillary Documentation**").

#### **2.4. Access Credentials**

Provider shall provide to Customer with means to verify the identity of Authorized Users and authorization to access and use the Services ("**Access Credentials**") within a commercially reasonable time following the Effective Date. Access Credentials may include usernames, identification numbers, passwords, licenses or security keys, security tokens, PINs, or other security code, method, technology, or device, which may be used alone or in combination, to verify an individual's identity and authorization to access and use the Services.

#### **2.5. Term**

This Agreement commences as of the Effective Date and will continue in effect from such date for the Initial Term as specified in an applicable Purchase Order. If the applicable Purchase Order does not specify the Initial Term, the Initial Term shall be a period of one (1) year.

This Agreement will automatically renew for additional successive Renewal Terms as specified in the applicable Purchase Order, or for periods of one (1) year if the applicable Purchase Order does not specify a Renewal Term, unless earlier terminated pursuant to this Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term.

#### **2.6. Compensation**

Customer shall pay Provider the Fees set forth in a Purchase Order for the Services, or if the Purchase Order does not specify the Fees, as published on the Provider's website (including [www.cloudboxapp.com](http://www.cloudboxapp.com)) from time to time. Provider may increase Fees for any Renewal Term by providing written notice to Customer or publishing the Fees on the Provider's website at least ninety (90) calendar days prior to the commencement of such Renewal Term.

#### **2.7. Taxes**

All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Customer must pay all federal, state, local, sales, use, value added, excise, or other taxes, fees, or duties arising out of this Agreement or the transactions contemplated by this Agreement (other than taxes based on Provider's net income), and will indemnify Provider for all expenses incurred as a result of Customer's failure to timely pay such taxes.

#### **2.8. Payment**

Customer shall pay all Fees within thirty (30) days after the date of the invoice therefor. Customer shall make all payments hereunder in US dollars. Customer shall make payments to the address or account as Provider may specify in writing from time to time.

If Customer fails to make any payment when due then, in addition to all other remedies that may be available:

- a) Provider may charge interest on the past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law;
- b) Customer shall reimburse Provider for all reasonable costs incurred by Provider in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and
- c) if such failure continues for ten (10) days following written notice thereof, Provider may suspend performance of the Services until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Customer or any Third Party by reason of such suspension.

All amounts payable to Provider under this Agreement shall be paid by Customer to Provider in full without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable law).

## **2.9. Provider Control**

Except as otherwise expressly provided in this Agreement, as between the Parties, Provider has and will retain sole control over the operation, provision, maintenance, and management of the Service Documentation, System Documentation, and Ancillary Documentation (collectively, the “**Documentation**”); Specifications; Provider Systems; and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by Provider or any subcontractor in connection with the Services or otherwise comprise or relate to the Services or Provider Systems (collectively, the “**Provider Materials**”).

For the avoidance of doubt, Provider Materials include data and information related to Customer’s use of the Services that is used by Provider in an aggregate and anonymized manner, including to compile statistical and performance information related to information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from Customer or an Authorized User by or through the Services (“**Customer Data**”) and the provision and operation of the Services and any information, data, or other content derived from Provider’s monitoring of Customer’s access to or use of the Services (collectively, “**Resultant Data**”), but do not include Customer Data. For avoidance of doubt, Resultant Data includes anonymized data related to inventory and consumer preferences collected by or through the Services.

## **2.10. Customer Control**

Customer has and will retain sole control over the operation, maintenance, and management of, and all access to and use of: (a) the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or a Third Party ("**Customer Systems**"), and (b) sole responsibility for all access to and use of the Provider Materials by any Third Party by or through the Customer Systems or any other means controlled by Customer or any Authorized User, including any: (i) information, instructions, or materials provided by any of them to the Services or Provider; (ii) results obtained from any use of the Services or Provider Materials; and (iii) conclusions, decisions, or actions based on such use.

## **2.11. Changes**

Provider reserves the right, in its sole discretion, to make any changes to the Services and Provider Materials that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of Provider's services to its customers; (ii) the competitive strength of or market for Provider's services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable law.

## **2.12. Subcontractors**

Provider may from time to time in its discretion engage Third Parties to perform Services (each, a "**Subcontractor**").

## **2.13. Suspension or Termination of Services**

Provider or its designee may, directly or indirectly, and by use of any software, hardware, or other technology, device, or means (including any back door, time bomb, time out, drop dead device, or software routine) designed or configured to disable access to or use of the Services (automatically with the passage of time or under the positive control of Provider or its designee), or any other lawful means, suspend, terminate, or otherwise deny access to or use by Customer or any Authorized User of all or any part of the Services or Provider Materials, without incurring any resulting obligation or liability, if: (a) Provider receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Provider to do so; or (b) Provider believes, in its sole discretion, that: (i) Customer or any Authorized User has failed to comply with any term or condition of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any instruction or requirement of the Specifications; (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities; or (iii) this Agreement expires or is terminated. This Section does not limit any of Provider's other rights or remedies, whether at law, in equity, or under this Agreement.

#### 2.14. Use Restrictions

Customer shall not, and shall not permit any Third Party to, access or use the Services or Provider Materials except as expressly permitted by this Agreement and, in the case of materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment, or components of or relating to the Services that are not proprietary to Provider (collectively, “**Third-Party Materials**”), any applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

- a) copy, modify, or create derivative works or improvements of the Services or Provider Materials;
- b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Services or Provider Materials to any Third Party, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
- c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Services or Provider Materials, in whole or in part;
- d) bypass or breach any security device or protection used by the Services or Provider Materials or access or use the Services or Provider Materials other than by an Authorized User through the use of then valid Access Credentials provided to such Authorized User;
- e) input, upload, transmit, or otherwise provide to or through the Services or Provider Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any software, hardware, or other technology, device, or means, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (i) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (x) computer, software, firmware, hardware, system, or network; or (y) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data processed thereby; or (ii) prevent Customer or any Authorized User from accessing or using the Services or Provider Systems as intended by this Agreement (“**Harmful Code**”);
- f) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Services, Provider Systems, or Provider's provision of services to any Third Party, in whole or in part;

- g) remove, delete, alter, or obscure any trademarks, Specifications, Documentation, license agreements, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Services or Provider Materials, including any copy thereof;
- h) access or use the Services or Provider Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right (as defined herein) or other right of any Third Party (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other Provider customer), or that violates any applicable law;
- i) access or use the Services or Provider Materials for purposes of competitive analysis of the Services or Provider Materials, the development, provision, or use of a competing software service or product or any other purpose that is to the Provider's detriment or commercial disadvantage;
- j) access or use the Services or Provider Materials in, or in association with, the design, construction, maintenance, or operation of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Services could lead to personal injury or severe physical or property damage; or
- k) otherwise access or use the Services or Provider Materials beyond the scope of the authorization granted under this Agreement.

#### **2.15. Customer Obligations**

Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair and in accordance with the Specifications all Customer Systems on or through which the Services are accessed or used; and (b) provide all cooperation and assistance as Provider may reasonably request to enable Provider to exercise its rights and perform its obligations under and in connection with this Agreement.

Customer shall employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Services; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for processing by the Services.

If Customer becomes aware of any actual or threatened activity prohibited by this Agreement, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Services and Provider Materials and

permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify Provider of any such actual or threatened activity.

Provider is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "**Customer Failure**").

## **2.16. Confidentiality**

### **2.16.1. Generally**

Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association, or sponsorship, in each case, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, provided, however, that Provider may, without Customer's consent, include Customer's name and other indicia in its lists of Provider's current or former customers of Provider in promotional and marketing materials.

### **2.16.2. Proprietary Information**

For purposes of this Agreement, the term "**Proprietary Information**" means (i) any information disclosed, directly or indirectly, by one Party ("**Disclosing Party**") to the other Party ("**Receiving Party**") pursuant to this Agreement that is designated as "confidential", "proprietary", or in some other manner to indicate its proprietary nature; and (ii) information otherwise reasonably expected to be treated in a confidential manner under the circumstances of disclosure or by the nature of the information itself. Without limiting the foregoing, Proprietary Information shall include information consisting of or relating to Provider Materials, Access Credentials, and other technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which Provider has contractual or other confidentiality obligations, in each case whether or not marked, designated, or otherwise identified as "confidential" or "proprietary".

During the period this Agreement is in effect, and at all times afterwards, a Receiving Party will (a) safeguard all Proprietary Information with the same degree of care that it uses to protect its own proprietary information; (b) maintain the confidentiality of this information; (c) not use the information except as permitted under this Agreement; and (d) not disseminate, disclose, sell, publish, or otherwise make available the information to any Third Party without the prior written consent of the Disclosing Party.

### **2.16.3. Limitations**

This section does not apply to any information that (a) is already lawfully in the Receiving Party's possession (unless received pursuant to a nondisclosure agreement); (b) is or becomes generally available to the public through no fault of the Receiving Party; (c) is disclosed to the



Receiving Party by a Third Party who may transfer or disclose such information without restriction; (d) is required to be disclosed by the Receiving Party as a matter of law (provided that the Receiving Party will use all reasonable efforts to provide the Disclosing Party with prior notice of such disclosure and to obtain a protective order therefor); (e) is disclosed by the Receiving Party with the Disclosing Party's approval; and (f) is independently developed by the Receiving Party without any use of Proprietary Information. In all cases, the Receiving Party will use all reasonable efforts to give the Disclosing Party thirty (30) days prior written notice of any anticipated disclosure of Proprietary Information under this Agreement.

#### **2.17. Intellectual Property Rights**

Nothing in this Agreement grants any title or interest in or to (including any license under) any registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other laws, and all similar or equivalent rights or forms of protection, in any part of the world ("**Intellectual Property Rights**") in or relating to, the Services, Provider Materials, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Services, the Provider Materials, the Third-Party Materials, and Resultant Data are and will remain with Provider and the respective rights holders in the Third-Party Materials.

Customer has no right, license, or authorization with respect to any of the Provider Materials except as expressly set forth in this Agreement or the applicable third-party license. All other rights in and to the Provider Materials are expressly reserved by Provider. In furtherance of the foregoing, Customer hereby unconditionally and irrevocably grants to Provider an assignment of all right, title, and interest in and to the Resultant Data, including all Intellectual Property Rights relating thereto.

Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data as are necessary or useful to Provider and its Subcontractors to enforce this Agreement and exercise the rights and perform the obligations of Provider and its Subcontractors hereunder, including Provider's rights to use Resultant Data derived from Customer Data.

As between Customer and Provider, Customer is and will remain the sole and exclusive owner of all right, title, and interest in and to all Customer Data, including all Intellectual Property Rights relating thereto, subject to the rights and permissions granted in this Section.

#### **2.18. Relationship**

In connection with this Agreement, each of the Parties is an independent contractor and as such will not have any authority to bind or commit the other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, or agency relationship between the Parties for any purpose.

## **2.19. Representations and Warranties**

### **2.19.1. Mutual Representations and Warranties**

Each Party represents and warrants to the other Party that:

- a) such Party has all the requisite legal power to assent to this Agreement and to carry out and perform its obligations under the terms of this Agreement;
- b) if not a natural person, all organizational action on the part of such Party that is necessary for the authorization, execution, delivery, and performance of all the obligations of such Party under this Agreement has been taken; and
- c) this Agreement, including Schedules and Addenda, if any, constitutes the entire understanding between the Parties, and supersedes all prior agreements and negotiations, whether oral or written.

### **2.19.2. Customer's Additional Representations and Warranties**

Customer represents and warrants to Provider that Customer:

- a) is not a national or resident of, or located in or under the control of, any country subject to an embargo of goods by the United States;
- b) is not on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders; and
- c) owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Data so that, as received by Provider and processed in accordance with this Agreement, the use, storage, or processing of Customer Data in accordance with this Agreement will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any Third Party or violate any applicable law.

## **2.20. DISCLAIMERS**

**EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALL SERVICES, GOODS, AND OTHER DELIVERABLES ARE PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. PROVIDER DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM CONDUCT OR COURSE OF DEALING, USAGE, OR TRADE PRACTICE.**

**WITHOUT LIMITING THE FOREGOING, PROVIDER MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR PROVIDER MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY**

INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY MATERIALS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

## **2.21. Termination**

### **2.21.1. Provider's Rights to Terminate.**

In addition to any other express termination right set forth elsewhere in this Agreement, Provider may terminate this Agreement:

- i. immediately upon notice to Customer, if Customer breaches any obligation related to use restrictions or confidentiality;
- ii. upon thirty (30) days written notice if Customer fails to pay any amount due to Provider under this Agreement ("**Failure to Pay**");
- iii. upon sixty (60) days written notice if there is a change in control of Customer, whether by sale of assets, stock, or otherwise; or
- iv. at any time and from time to time, with or without cause, on ninety (90) days prior written notice to Customer.

### **2.21.2. Mutual Rights to Terminate**

Any of the Parties, as applicable, shall have the right, in addition, and without prejudice to any other rights or remedies, to terminate this Agreement:

- i. on written notice to the other Party, if the other Party materially breaches this Agreement (a "**Breach**"), and such Breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after written notice of such Breach; or
- ii. immediately upon written notice, if:
  - a. all or a substantial portion of the assets of another Party are transferred to an assignee for the benefit of creditors, to a receiver, or to a trustee in bankruptcy;
  - b. a proceeding is commenced by or against the other Party for relief under bankruptcy or similar laws and such proceeding is not dismissed within thirty (30) days; or
  - c. the other Party is adjudged bankrupt.

## **2.22. Rights on Termination**

Upon any expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement:

- a) all rights, licenses, consents, and authorizations granted by either Party to the other hereunder will immediately terminate;
- b) Provider shall immediately cease all use of any Customer Data or Customer's Proprietary Information, provided that, for clarity, Provider's obligations under this Section do not apply to any Resultant Data;
- c) Customer shall immediately cease all use of any Services or Provider Materials and (i) promptly return to Provider, or at Provider's written request destroy, all documents and tangible materials containing, reflecting, incorporating, or based on any Provider Materials or Provider's Proprietary Information; (ii) permanently erase all Provider Materials and Provider's Proprietary Information from all Customer Systems; and (iii) upon Provider's written request, certify to Provider in a signed written instrument that it has complied with the requirements of this Section;
- d) notwithstanding anything to the contrary in this Agreement, with respect to information and materials then in its possession or control: (i) the Receiving Party may retain the Disclosing Party's Proprietary Information; (ii) Provider may retain Customer Data; (iii) Customer may retain Provider Materials, in the case of each of subclause (i), (ii) and (iii) in its then current state and solely to the extent and for so long as required by applicable law; (iv) Provider may also retain Customer Data in its backups, archives, and disaster recovery systems until such Customer Data is deleted in the ordinary course; and (v) all information and materials described in this Section will remain subject to all confidentiality, security, and other applicable requirements of this Agreement;
- e) Provider may disable all Customer and Authorized User access to the Services and to the Provider Systems;
- f) if Customer terminates this Agreement for a Breach, Customer will be relieved of any obligation to pay any Fees attributable to the period after the effective date of such termination and Provider will refund to Customer any Fees paid in advance for Services that Provider has not performed as of the effective date of termination;
- g) if Provider terminates this Agreement for Failure to Pay or a Breach, all Fees that would have become payable had the Agreement remained in effect until expiration of the Term will become immediately due and payable, and Customer shall pay such Fees, together with all previously-accrued but not yet paid Fees, on receipt of Provider's invoice therefor; and

- h) if Customer requests in writing at least thirty (30) days prior to the effective date of expiration or termination, Provider shall, within ten (10) days following such expiration or termination, deliver to Customer the then most recent version of Customer Data maintained by Provider, provided that Customer has at that time paid all Fees then outstanding and any amounts payable after or as a result of such expiration or termination, including any expenses and fees, on a time and materials basis, for Provider's services in transferring such Customer Data.

## **2.23. Remedies**

### **2.23.1. Breach of Warranty**

Notwithstanding Provider's disclaimer of warranties, if Customer claims any breach of a valid and enforceable warranty by Provider, Customer's exclusive remedy shall be for Provider to promptly cure the breach. If Provider is unable to cure the breach within ninety (90) days of notification by Customer of a breach, Customer's sole remedy is to terminate this Agreement, at which time Provider will refund any and all Fees paid by Customer pursuant to this Agreement within the ninety (90) day period before Customer notifies Provider of the breach.

### **2.23.2. Injunctive Relief**

The Parties acknowledge that any breach of confidentiality obligations under this Agreement by a Receiving Party will irreparably harm the Disclosing Party. Accordingly, in the event of a breach of confidentiality, the Disclosing Party is entitled to promptly seek injunctive relief in addition to any other remedies that the Disclosing Party may have at law or in equity.

### **2.23.3. Attorney Fees**

If any Party to this Agreement shall commence any suit or action to interpret or enforce this Agreement, the prevailing Party in such action shall recover that Party's costs and expenses incurred in connection with the suit or action, including attorney fees and costs of appeal, if any.

## **2.24. Limitations of Liability**

PROVIDER IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING THE LOSS OF PROFITS, REVENUE, DATA, OR SOFTWARE, RELATED TO ANY GOODS OR SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO INABILITY TO OPERATE OR ACCESS SYSTEMS OR INFORMATION, OR USE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, EVEN IF PROVIDER OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL PROVIDER OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE FOR ANY: (A) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (B) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION, OR DELAY OF THE SERVICES; (C) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (D) COST OF REPLACEMENT GOODS OR SERVICES; OR (E) LOSS OF GOODWILL OR REPUTATION.

PROVIDER'S AGGREGATE LIABILITY TO CUSTOMER FOR DAMAGES UNDER THIS AGREEMENT OR OTHERWISE SHALL NOT EXCEED THE COVERAGE ACTUALLY AFFORDED BY PROVIDER'S GENERAL LIABILITY INSURANCE POLICY, ERRORS AND OMISSIONS INSURANCE POLICY, AND UMBRELLA INSURANCE POLICY, AS APPLICABLE, IN EFFECT AT THE TIME ANY CLAIM AGAINST PROVIDER IS MADE BY CUSTOMER.

IF THERE IS NO INSURANCE COVERAGE FOR A CLAIM, CUSTOMER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT PROVIDER'S AGGREGATE LIABILITY FOR ANY DAMAGES OR INJURIES SUFFERED BY CUSTOMER, WHETHER BASED ON A BREACH OF CONTRACT OR WARRANTY, CLAIM OF NEGLIGENCE, MISREPRESENTATION OR OTHER TORT, OR ON ANY OTHER LEGAL OR EQUITABLE THEORY SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY CUSTOMER TO PROVIDER PURSUANT TO THIS AGREEMENT IN THE PERIOD OF NINETY (90) DAYS PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

To the fullest extent permitted by law, no action arising out of or in connection with this Agreement or the transactions contemplated by the Agreement may be brought by either of the Parties against the other more than two (2) years after the action accrues.

## **2.25. Indemnification**

### **2.25.1. Infringement**

Provider indemnifies, defends, and holds Customer harmless from and against any and all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (each a "**Loss**") incurred by Customer resulting from any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise (each an "**Action**") by a Third Party (other than an Authorized User, a parent, subsidiary, or affiliate of Customer, or any Third Party otherwise under the control of or controlled by Customer, each a "**Customer Affiliate**") alleging that the Services and Provider Materials provided by

Provider to Customer under this Agreement infringe any Intellectual Property Right of the Third Party. If Provider is permanently enjoined from providing any services under this Agreement, Provider, at Provider's option, and in its sole discretion, may (a) modify the Services so as to avoid infringement; (b) procure the right for Customer to continue to use the Services; or (c) terminate this Agreement and refund to Customer all fees paid to Provider in the ninety (90) day period before such injunction. Provider shall have no obligation under this paragraph for or with respect to claims, actions, or demands alleging infringement that arise or result from (a) the combination of non-infringing items supplied by Provider with any items not supplied by Provider; (b) the direct or contributory infringement of any process patent by Customer through the use of the goods or services; (c) continued allegedly infringing activity by Customer after Customer has been notified of any allegation of infringement; (d) Third-Party Materials; (e) Customer Data; or (f) failure to timely implement any modifications, upgrades, replacements, or enhancements made available to Customer by or on behalf of Provider.

THIS SECTION SETS FORTH CUSTOMER'S SOLE REMEDIES AND PROVIDER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES AND PROVIDER MATERIALS OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

#### **2.25.2. Other Actions by Third Parties**

Provider shall indemnify, defend, and hold harmless Customer from and against any and all Losses incurred by Customer resulting from any Action by a Third Party (other than a Customer Affiliate) that arises out of or result from, or are alleged to arise out of or result from any negligent, grossly negligent or intentional tortious act or omission of Provider, its employees or agents, in performing its obligations under this Agreement, except to the extent that such Losses arise from or in connection with the negligence, gross negligence, or intentional tortious act or omission of Customer or Customer Affiliates.

Customer shall indemnify, defend, and hold harmless Provider and its Subcontractors and affiliates, and each of its and their respective officers, directors, employees, agents, successors, and assigns, from and against any and all Losses incurred by Provider resulting from any Action by a Third Party, other than any Third Party under the control of or controlled by Provider (a "**Provider Affiliate**") that arise out of or result from, or are alleged to arise out of or result from (a) any negligent, grossly negligent or intentional tortious act or omission of Customer, its employees or agents, in performing its obligations under this Agreement, except to the extent that such claims, liabilities, losses or expenses arise from or in connection with the negligence, gross negligence, or intentional tortious act or omission of Provider, its Subcontractors, or Provider Affiliates; (b) Customer Data, including any processing of Customer Data by or on behalf of Provider in accordance with this Agreement; (c) any other materials or information (including any documents, data, specifications, software, content, or

technology) provided by or on behalf of Customer or any Authorized User, including Provider's compliance with any specifications or directions provided by or on behalf of Customer or any Authorized User to the extent prepared without any contribution by Provider; or (d) allegation of facts that, if true, would constitute Customer's breach of any of its representations, warranties, covenants, or obligations under this Agreement.

### **2.25.3. Conditions**

Should any claim subject to indemnity be made against the Parties, the Party against whom the claim is made (the "**Indemnatee**") agrees to provide the other Party (the "**Indemnitor**") with prompt written notice of the claim.

The Indemnitor shall promptly assume control of the defense and shall employ counsel reasonably acceptable to the Indemnatee to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnatee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitor shall not settle any Action on any terms or in any manner that adversely affects the rights of any Indemnatee without the Indemnatee's prior written consent, which shall not be unreasonably withheld or delayed. If the Indemnitor fails or refuses to assume control of the defense of such Action, the Indemnatee shall have the right, but no obligation, to defend against such Action, including settling such Action after giving notice to the Indemnitor, in each case in such manner and on such terms as the Indemnatee may deem appropriate. The Indemnatee's failure to perform any obligations under this Section will not relieve the Indemnitor of its obligations under this Section, except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The indemnifying Party is not responsible for any costs incurred, including attorney fees, or compromise made by the indemnified Party unless the indemnifying Party has given prior written consent to the cost or compromise.

Each of the Parties agrees to cooperate with the other Party and provide reasonable assistance in the defense and settlement of any and all claims subject to indemnification by the other Party.

### **2.26. Notices**

Any notices to be given to Provider under this Agreement shall be by e-mail to the address designated above. Any notices to be given to Customer under this Agreement shall be by email to the most recent address provided to Provider by Customer.

### **2.27. Amendments**

No alteration, modification, amendment, or other change of this Agreement shall be binding on the Parties unless in writing, approved and executed by the Parties.

### **2.28. Assignment**

Neither this Agreement, nor any rights, benefits, or obligations under it, may be assigned by any Party to this Agreement without the prior express written consent of the other Party,



which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that Provider may assign its rights in connection with a merger, consolidation, or reorganization without Customer's consent.

#### **2.29. Binding Effect**

Subject to the foregoing paragraph, this Agreement shall inure to the benefit of and be binding upon all the Parties to this Agreement and their respective executors, administrators, successors, and permitted assigns.

#### **2.30. Severability**

In the event any of the provisions of this Agreement are found by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected.

#### **2.31. Construction**

The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. Customer has been advised by counsel of their choice in connection with this Agreement or has been given adequate opportunity to seek such advice. This Agreement shall be construed and interpreted in accordance with the plain meaning of its language, and not for or against either Party, and as a whole, giving effect to all of the terms, conditions, and provisions of this Agreement.

#### **2.32. Survival**

All warranties, representations, indemnification obligations, confidentiality obligations, and any other right or obligation of the Parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement.

#### **2.33. Force Majeure**

Except for the obligation to pay money, neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control (a "**Force Majeure Event**"), including without limitation an act of war, terrorism, pandemic, act of nature, act of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act, hacker attack, or failure of the Internet. The delayed Party shall give the other Party notice of such cause and shall use its reasonable commercial efforts to correct such failure or delay in performance.

#### **2.34. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws as designated in the Website Terms of Use. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.

### **2.35. Venue**

All disputes arising out of or related to this Agreement shall be brought in and are subject to the exclusive jurisdiction and venue as set forth in the Website Terms of Use.

### **2.36. Integration**

This Agreement, together with the Website Terms of Use and any other Schedules, Appendices, Addenda or documents referenced herein, which are hereby incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the access to and use of the Services and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the access to and use of the Services.

To the extent that anything in or associated with the Website Terms of Use (available at <https://www.cloudboxapp.com/policy/terms-of-service>), including the Provider's Privacy Policy (available at <https://www.cloudboxapp.com/policy/privacy-policy>), is in conflict or inconsistent with the terms and conditions set forth herein, the terms and conditions set forth herein shall take precedence, but only with respect to the access to and use of the Services. For avoidance of doubt, nothing in the Website Terms of Use or the Privacy Policy shall preclude Provider from sharing or selling any Resultant Data.

### **2.37. Electronic Transactions**

The Parties agree that this Agreement may be accepted by any means of signature, including electronic signatures or acknowledgement through software or other electronic means.

### **2.38. No Third-Party Benefit**

Nothing contained in this Agreement shall be deemed to confer any right or benefit on any person who is not a Party to this Agreement.

By signing below, the Customer acknowledges that they have read, understood, and agree to the provisions of this Agreement outlined above.

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**Printed Name**

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**Title**

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**Signature**

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**Date**

## **EXHIBIT A**

### **Hardware Products offered by Provider:**

- CloudBox Origin: CloudBox Origin: CloudBox Origin is a smart inventory management container. Origin tracks and updates inventory that is removed and added from the smart container in real-time. The changes in inventory can be viewed on the CloudBox mobile app and web portal. CloudBox Origin's container can be separated from the base into two modules for transportation purposes. The container's contents & information is stored in an RFID chip in which any base can access. CloudBox Origin can be integrated into other software to streamline efficiency and is paired with Wi-Fi.

### **Software Products offered by Provider:**

- CloudBox Software Suite: CloudBox's web portal and software provide a seamless, real-time inventory management solution designed for businesses needing precision and efficiency. The platform integrates with CloudBox smart containers, automatically tracking inventory changes as items are added or removed. Users can access the web dashboard or mobile app to monitor stock levels, set custom alerts for low inventory, and generate automated reports. The software supports both weight-based and unit-based tracking, allowing businesses across industries to accurately manage their stock without manual counting. With cloud-based storage and API integration, CloudBox ensures data is always up-to-date and accessible from anywhere.

The software also enhances operational efficiency with multi-user access, enabling different departments to log in and view synchronized inventory data. Advanced analytics provide insights into usage trends, demand forecasting, and potential losses due to shrinkage. CloudBox integrates with point-of-sale (POS) and enterprise resource planning (ERP) systems, ensuring seamless workflows. By eliminating manual errors, stockouts, and inefficiencies, CloudBox transforms inventory management into an automated, data-driven process that saves time and money.