

## PRODUCT PURCHASE TERMS AND CONDITIONS

THIS AGREEMENT IS A BINDING CONTRACT AND APPLIES TO CUSTOMER'S PURCHASE OF PRODUCTS FROM CLOUD611. NO ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS IN ANY FORM DELIVERED BY CUSTOMER TO CLOUD611 APPLY; SUCH ADDITIONAL OR DIFFERENT TERMS ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO AND REJECTION OF SUCH TERMS IS HEREBY GIVEN BY CLOUD611.

BY MAKING A PURCHASE FROM OR PLACING AN ORDER WITH CLOUD611, CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS UNLESS CUSTOMER AND CLOUD611 HAVE AGREED TO A SEPARATE CONTRACT FOR THE RESALE OF PRODUCTS BY CLOUD611 TO CUSTOMER, IN WHICH CASE SUCH SEPARATE, FULLY-EXECUTED WRITTEN CONTRACT BETWEEN THE PARTIES OR CLICKTHROUGH CONTRACT PROVIDED BY CLOUD611 AND ACCEPTED BY CUSTOMER WILL GOVERN.

Orders placed by Customer are not binding until accepted by Cloud611. This Agreement is subject to change without prior notice; however, the version of this Agreement posted on the Website at the time that Customer placed an order will govern such order unless otherwise agreed in writing by Cloud611 and Customer.

### 1. Definitions.

- a. *Agreement* means these terms and conditions;
- b. *Customer* means the entity ordering and/or purchasing Products from Cloud611;
- c. *Products* means products and services that Cloud611 resells from Third Party Providers including but not limited to hardware, software, subscription services, updates, bug fixes, maintenance services, support services, warranty services and professional services;
- d. *Cloud611* means Cloud611 Corp or Cloud611 Corporation, as the case may be, and any of Cloud611 Corp's affiliates, subsidiaries or parent companies as the case may be;
- e. *Terms of Use* means the terms and conditions or agreement between the Third Party Provider and the Customer applicable to Customer's use, subscription and/or receipt of the Product which may be in the form of an end user license agreement, terms of use or a separate negotiated agreement between the Customer and the Third Party Provider;
- f. *Third Party Provider* means the manufacturer, distributor, licensor or provider of the Product which is resold by Cloud611, as the case may be; and
- g. *Website* means this website or any other website operated by Cloud611.

2. **Reseller Only.** Customer acknowledges and agrees that: (i) the Products purchased by Customer are resold by Cloud611 for Customer's use only (unless otherwise stated in the Terms of Use); and (ii) Cloud611 is not the creator, manufacturer, distributor or licensor of the

Products. In purchasing the Products, Customer is relying on the Third Party Provider's specifications only and is not relying on any statements or documents that may be provided by Cloud611.

- 3. Warranty Disclaimer.** If applicable and permitted by the Third Party Provider, Cloud611 will pass through to Customer any warranties provided to Cloud611 by the Third Party Provider for a Product. This limited obligation to pass through warranties provided by the Third Party Provider to Customer is Customer's sole remedy and Cloud611's sole obligation in connection with representations, warranties and conditions related to Products. CLOUD611 MAKES NO WARRANTIES, REPRESENTATIONS OR CONDITIONS IN CONNECTION WITH THE PRODUCTS WHETHER EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. Customer acknowledges that no employee of Cloud611 is authorized to make any representation or warranty on behalf of Cloud611 that is not in this Agreement.
- 4. No Indemnification from Cloud611.** To the extent that a Third Party Provider provides indemnities to Cloud611, including but not limited to, indemnification against liability for infringement of a third party's proprietary rights, and to the extent that such Third Party Provider permits the transfer of such indemnities to Customer, Cloud611 will pass such indemnities through to Customer. Cloud611 does not directly provide any indemnities in connection with the Products. Further, Customer expressly waives any claim that it may have or allege to have against Cloud611 based on any product liability or infringement or alleged infringement of any patent, copyright, trade secret or other intellectual property right with respect to any Product and also waives any right to indemnification from Cloud611 against any such claim made against Customer by a third party.
- 5. LIMITATION OF LIABILITY.**

  - a. CLOUD611'S TOTAL AND AGGREGATE LIABILITY FOR ANY LOSS, DAMAGE, COST OR EXPENSE SUFFERED OR INCURRED BY CUSTOMER ARISING OUT OF OR IN CONNECTION WITH THE CUSTOMER'S ORDER OR PURCHASE OF PRODUCTS, CLOUD611'S SUPPLY OF PRODUCTS OR THIS AGREEMENT IS HEREBY LIMITED TO THE LESSER OF: (A) THE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PRODUCT GIVING RISE TO THE CLAIM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING SUCH CLAIM; OR (B) TEN-THOUSAND (\$10,000.00) CANADIAN DOLLARS.
  - b. IN NO EVENT SHALL CLOUD611 BE LIABLE TO THE CUSTOMER FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES. CLOUD611 SHALL HAVE NO LIABILITY FOR THE FOLLOWING: (I) LOSSES OF REVENUE, INCOME, PROFIT OR SAVINGS; (II) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF

SYSTEMS(S) OR NETWORK(S), OR THE RECOVERY OF SUCH; (III) LOSS OF BUSINESS OPPORTUNITY; (IV) BUSINESS INTERRUPTION OR DOWNTIME; (V) LOSS OF GOODWILL OR REPUTATION; OR (VI) PRODUCTS NOT BEING AVAILABLE FOR USE OR THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR OTHER GOODS.

- c. The foregoing limitations, exclusions and disclaimers shall apply to any and all claims, regardless of whether the alleged or actual damages were foreseeable or a claim for such damages is based in contract, warranty, strict liability, negligence, tort or otherwise. Insofar as applicable law prohibits any limitation on liability herein, the parties agree that such limitation will be automatically modified, but only to the extent so as to make the limitation compliant with applicable law. The parties agree that the limitations on liabilities set forth herein are agreed and bargained-for allocations of risk and Cloud611' compensation for the Products reflects such allocations. Such limitations will apply notwithstanding the failure of the essential purpose of this Agreement or any remedy contained herein and even if a party has been advised of the possibility of any such failure or liability.
6. **Title and Acceptance.** Subject to the Terms of Use, title to hardware Products shall pass to Customer, and acceptance of the hardware Products shall occur, upon delivery of the hardware Products to the carrier (F.O.B. Origin). For greater certainty, title to software Products will remain with the applicable Third Party Provider (or its licensor), and Customer's rights therein are contained in the Terms of Use.
7. **Payment Terms.** Unless otherwise agreed by Cloud611 in writing, Customer shall pay the invoice it receives from Cloud611 in respect of the Products purchased within thirty (30) days of the invoice date. Customer is responsible for any applicable sales, use, or other taxes, or federal, provincial, state or local fees or assessments associated with its purchase of Products. If Customer is purchasing Products for use in Canada, payments shall be made in the lawful currency of Canada; if Customer is purchasing Products for use outside of Canada, payments shall be made in the lawful currency of the United States. Customer hereby grants to Cloud611 a security interest in the Products to secure payment in full. Customer authorizes Cloud611 to file a financing statement reflecting such security interest.
8. **Terms of Use.** All Products provided to Customer are subject to the applicable Terms of Use. Customer agrees to abide by the Terms of Use and will defend, indemnify and hold Cloud611 harmless from any third party claim related to Customer's failure to abide by the Terms of Use.
9. **Delivery.** Cloud611 cannot and does not guarantee that it can fulfill Customer's requests for Products. Delivery times are estimates only and Cloud611 shall not be liable for delays.

- 10. Returns.** All returns are subject to Cloud611's returns policy available on the Website, as amended from time to time. Cloud611 will not be responsible for any Third Party Provider's refusal to accept the return of any Product for any reason.
- 11. Export Sales.** Customer agrees that it will not divert, use, export or re-export such items contrary to any federal, state or provincial laws in Canada or the United States. Customer expressly acknowledges and agrees that it will not export, re-export, or provide such items to any entity or person within any country that is subject to Canadian or United States economic sanctions imposing comprehensive embargoes without obtaining prior authorization from the applicable authority. Customer also expressly acknowledges and agrees that it will not export, reexport, or provide such items to entities and persons that are ineligible under Canadian or United States law to receive such items.
- 12. Entire Agreement.** Subject to a separate, written, fully-executed agreement between Cloud611 and Customer for the sale of Products or a click-through contract provided by Cloud611 and accepted by Customer for the sale of Products, this Agreement contains the complete agreement between Cloud611 and Customer relating to the purchase and provision of the Products and supersedes all prior negotiations, representations and understandings. For greater certainty, purchase orders issued by Customer are issued for administrative purposes only; terms and conditions contained in any such purchase order shall be null and void.
- 13. Choice of Law.** This Agreement shall be governed by the laws in effect in the Province of Ontario, without regard to its conflict of laws rules. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario and the Canadian federal courts located therein. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- 14. No Waiver.** No provision of this Agreement may be waived, by any act or omission of either Cloud611 or the Customer, and this Agreement may not be amended except by the express written consent of both parties. For greater certainty, forbearance or indulgence by either Cloud611 or the Customer in any regard shall not constitute a waiver of any provision of this Agreement.
- 15. Assignment.** Customer may not assign this Agreement or any rights or obligations under this Agreement to a third party without the prior written consent of Cloud611.
- 16. Language.** The Parties agree that this Agreement be drafted in the English language.
- 17. Severability.** In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

**18. Force Majeure.** Except for a party's obligation to pay the other party an amount owed in accordance with this Agreement, neither party will be liable for a failure or delay in performance on account of an act of God, act or omission of carriers, embargo, explosion, fire, flood, order of civil or military authority, strike, lockout, war, Product unavailability, carrier delays or similar causes beyond its control. If such an event renders impossible or delays a party's performance, that party immediately will notify the other in writing.