Terms and Conditions
Revised September 2021

These Terms and Conditions (the "Terms") are effective when your Statement of Work (the "SOW," which along with the Terms are collectively referred to as the "Agreement") is executed by you and ITBroker.com Inc., a Texas corporation ("ITBroker.com" or "we").

1. **Services**. ITBroker.com will work closely with you to understand your requirements, end goals, and any other relevant issues related to your business, cloud, information technology and telecommunications needs as well as provide consulting and evaluation services to assist you in designing solutions, identifying suppliers, negotiating agreements, and managing your projects as set forth in your SOW (collectively, the "Services"). To the extent we assist you with signing a contract with a Supplier via our e-signature service, you agree and acknowledge that the same is offered as a courtesy, and ITBroker.com shall incur no additional liability or obligation due to the same.

2. **Appointment of Agent.** In furtherance of the Services to be performed, you hereby appoint ITBroker.com as your exclusive agent to broker contracts and oversee your relationship with potential Suppliers (individually, a "Supplier," and collectively, the "Suppliers"). We hereby accept the appointment as your exclusive agent and agree to use our best efforts to provide our Services. You acknowledge that we retain the right to act as exclusive agent for and to provide our Services to other businesses, whether or not those business compete with your company.

3. **Authority**. For the avoidance of doubt, although we will have the right to solicit and negotiate bids on your behalf, we will have no authority to bind you to contracts without your advance written consent. All due diligence obligations related to selecting and contracting with a Supplier shall remain with you, including the obligations to conduct due diligence on said Supplier; independently review any and all information provided by said Supplier and/or contained in a contract with said Supplier for accuracy, completeness, and timeliness of information; and seek legal and/or financial advice related to any contract you may enter into with a Supplier. In addition, you, or ITBroker.com on your behalf with your written permission, have ultimate authority to enter into a contract with a Supplier for which you will be financially obligated. Should we assist you with signing a contract with a Supplier via our e-signature service, you will ensure a duly authorized representative signs the same. As described in more detail in Section 11, you agree that we will not be liable for any contracts you enter into with a Supplier.

4. **Term.** The term shall be set forth in your SOW.

5. **Termination.** Either party may terminate this Agreement upon ninety (90) days' written notice. In the event of early termination by you, you agree and understand that you may be responsible for the obligations that by their nature survive the termination of this Agreement.

6. **Service Fees**. Your Service Fees shall be based on the type of Services you request ITBroker.com to provide you in your SOW. All invoices are due within 30 days of receipt. After 30 days you will be charged a 5% late fee on the total amount due with 1.5% monthly accruing interest for each subsequent month.

7. **Trade Secrets.** You acknowledge that the Services we render are of a special, unusual character with a unique value and constitute our confidential trade secrets ("Trade Secrets"). You agree not use or reveal any of our Trade Secrets to any person or company that provides substantially similar Services of ITBroker.com, except for persons in your company who have agree to the same restrictions provided herein. You recognize that a breach of this provision may cause immediate, irreparable harm to ITBroker.com for which there is no adequate remedy at law. As such, you agree that we are entitled to injunctive and all other equitable relief that a court with jurisdiction deems just and proper for a breach of this Section 7.

8. **Non-Circumvention.** You agree not to circumvent, or attempt to circumvent, our Services by directly contracting with a Supplier during the Term and for eighteen (18) months after this Agreement expires or terminates that we: i) contacted on your behalf, with your advance written consent, to provide you cloud, information technology

or telecommunications services during the Term or ii) that was listed in a proposal we provided to you as part of our Services you requested in writing during the Term. If you breach this Section 8, you agree to pay us, as liquidated damages, the greater of $25,000 or two (2) times the amount of fees that we would have received from such Supplier under the contract you agreed to in breach of this Section 8 (the "Liquidated Damages").

a. Liquidated Damages. The Liquidated Damages to be paid under this Section 8 are for liquidated damages and not as penalty, it being specifically agreed by the parties that actual damages are difficult or impossible to ascertain and that the Liquidated Damages are reasonable. The Liquidated Damages only cover our damages under this Section 8 and not for any other breaches of this Agreement for which we reserve all rights and remedies available under the law.

9. **Expenses**. You will reimburse us for reasonable out-of-pocket expenses incurred on your behalf for the Services, provided that you gave us written consent in advance of incurring such expenses.

10. **Intellectual Property.** In no event shall any deliverable that relates in any manner to the Services be deemed to be works for hire. All deliverables, including but not limited to artistic drawings, texts and other documents, software or Web site code, photographs, graphic designs, logos, marketing and sales materials, reports, decks, presentations, strategies, and ideas (collectively, "Intellectual Property") are and shall be the sole and exclusive property of ITBroker.com. After this Agreement expires or is terminated you agree to return or destroy, with certification to us, all Intellectual Property we provided to you during the Term.

11. **Limitation of Liability.** Except for instances involving our gross negligence or intentional actions or omissions, in no event shall we be liable to you for any indirect, special, incidental, consequential, or exemplary damages, including, without limitation, damages for loss or revenue, loss of profits, or loss of goodwill, arising in any manner from our performance or nonperformance under this Agreement or any contract you sign with a Supplier as part of our Services, which shall include any contract you sign that is facilitated using our e-signature Services, which shall not be construed as our offering any legal or financial advice. Our liability shall be limited to the lesser of: i) the direct and actual damages suffered by you or ii) the fees paid to by you to us for the performance of our Services under that Supplier's specific contract, or in the case of multiple contracts with us or with one Supplier, from which the damages at issue arose. Except as expressly provided for in this Agreement and to the maximum extent permitted by applicable law, WE MAKE NO WARRANTY OF ANY KIND, WHETHER IMPLIED, STATUTORY, OR OTHERWISE AND DISCLAIMS, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, AND NONINFRINGEMENT FOR OUR SERVICES OR THOSE PROVIDED BY SUPPLIERS THAT YOU CONTRACT WITH FROM OUR SERVICES.

12. **Indemnification.** You shall defend, indemnify and hold us, our officers, employees, agents and affiliates harmless from and against any and all alleged or actual losses, costs, claims, liability of any kind, damages (including to any tangible property or bodily injury to or death of any person), or expense of whatever nature (including reasonable attorneys' fees) to or by any third party, arising out of or relating to from any of your acts and/or omissions or those of your employees, representatives, and/or sub-agents or those of any Supplier you sign a contract with as part of our Services.

13. **GOVERNING LAW; JURISDICTION, ARBITRATION, EQUITABLE AND INJUNCTIVE RELIEF, ATTORNEYS' FEES AND COSTS**

a. Governing Law. This Agreement and any sales order and/or service specific agreement shall be deemed to have been executed and delivered within the County of Dallas and the State of Texas and shall be exclusively governed and interpreted by the laws of the State of Texas.

b. Jurisdiction. Any claim or controversy arising out of or related to this Agreement, including the issue of arbitrability of any such claim or controversy, shall be resolved solely by final, binding, and except as provided for herein, arbitration, conducted by a sole retired judge who served on the state

or federal bench for a minimum of term of (10) years. The arbitration shall be conducted through the Dallas Office of JAMS/Endispute, and subject to its Expedited Arbitration Procedures, or equivalent, in effect at time the arbitration is initiated. There shall be no discovery permitted in any such arbitration, unless expressly agreed in writing by all of the parties hereto. The arbitration hearing shall not exceed a maximum of two (2) days of eight (8) hours each day unless agreed upon in writing by both parties hereto. The Parties may appear telephonically or electronically unless justice requires otherwise. The arbitrator in such arbitration shall issue a written statement of decision with findings of fact and conclusions of law and shall further issue and make his or her decision in complete conformance with applicable Texas law, and in the event that the written decision, or any portion thereof, of the arbitrator is not in complete conformance, it shall be appealable on that basis, notwithstanding any contrary provisions of either Texas law, federal law, if applicable, and/or the rules of JAMS/Endisputes, which are expressly superseded by the terms of this Agreement to the extent of any conflict between them. Nothing contained herein, however, shall limit the ability of the parties hereto to pursue interim injunctive and/or equitable relief (e.g., a temporary restraining order or preliminary injunction or a pre-judgment writ of attachment and right to attach order) prior to the start or during the course of arbitration prior to the issuance of an arbitration award. A judgment on the award by the arbitrator may be entered in any court having jurisdiction thereover.

c. Equitable and Injunctive Relief. EACH PARTY HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, LOCATED IN THE COUNTY OF DALLAS, AND ANY STATE COURT OF TEXAS SITTING IN THE COUNTY OF DALLAS, TEXAS FOR PURPOSES OF ANY MOTION TO COMPEL ARBITRATION, TO CONFIRM AN ARBITRATION AWARD OR FOR INTERIM INJUNCTIVE OR EQUITABLE RELIEF OR FOR A PREJUDMENT WRIT OF ATTACHMENT. In the event that any party to this Agreement, or any of them retains counsel for the purpose of restraining, enjoining or otherwise preventing the breach of, and/or for the purpose of enforcing or interpreting this Agreement, including, without limitation, the commencement or institution of any arbitration proceeding or proceeding to enforce any provision of this Agreement, the commencement of an action for equitable relief as provided for hereinabove, or the commencement of an arbitration proceeding for damages by reason of any alleged breach of any provision hereof, or for a declaration of such party's rights or obligations hereunder, or for any other judicial remedy in connection therewith, the prevailing party shall, in addition to such other relief as may be granted in such action or proceeding (whether at arbitration, trial or on appeal,) and without limitation, be entitled to be reimbursed by the other party or parties, for all costs and expenses incurred thereby, including, without limitation, all of her or his, or its, or any of their, reasonable attorneys' fees, costs and disbursements for services rendered to such prevailing party, including, but not limited to, any expert witness fees, which award shall not be limited by any schedule of fees of any court or arbitration association or tribunal, and which shall be awarded to the prevailing party by the arbitrator and/or court in all cases as part of its arbitration award, equitable relief order, injunctive relief order, pre-judgment writ of attachment order, judgment or decision on appeal.

d. Attorneys' Fees and Costs. The parties further agree that should ITBroker.com engage an attorney or attorneys in connection with the enforcement of this Agreement or the collection of any monies due and owing to ITBroker.com, that ITBroker.com shall be entitled to reimbursement for any and all attorneys' fees it incurs within ten (10) days from the date of any written demand for the same, and that this provision shall apply notwithstanding the fact that the ITBroker.com may not thereafter file an arbitration action or action in any Court.

14. **Entire Agreement; Amendments; Waivers**. This Agreement constitutes all the agreements between the

parties with regard to the subject matters herein contained; there are no other agreements (oral or written), covenants, representations, and or warranties between the parties. This Agreement terminates and supersedes all previous agreements (oral and written) between the parties. This Agreement shall not be amended except in writing signed by the parties. In the case of conflict between the Terms and the SOW, the SOW controls. No waiver of any provision or consent to any action shall constitute a waiver of any other provisions or consent to any other current or future action or omission, whether or not similar.

15. **Good Faith and Fair Dealing.** This Agreement shall be governed, performed, and interpreted under the doctrines of good faith and fair dealing.

16. **Severability**. If any provision of this Agreement, or the application of such provision to any person or circumstances, is held invalid or unenforceable, the remainder of this Agreement, and the application of its provisions to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall continue in full force without being impaired or invalidated.

17. **Successors and Assigns**. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors, and permitted assigns.

18. **Counterparts**. This Agreement shall be executed in multiple counterparts. All such counterparts shall constitute one and the same agreement, but if making proof hereof, only one counterpart shall be necessary.

19. **Notices**. All notices or demands to be given under this Agreement shall be in writing and shall be served in person, by air courier delivery or by certified mail, with a copy by electronic mail. Service shall be deemed conclusively made (i) at the time of service, if personally served; (ii) three (3) Business Days after delivery by the Party giving the notice, statement or demand if by air courier with a guaranteed tracking facility; or (iii) seven (7) Business Days after placement in the United States mail by Certified Mail, Return Receipt Requested, with postage prepaid. Notices and demands shall be sent to you at the address set forth in your SOW, unless and until a different address has been designated by written notice to the other Party. Notices and demands to ITBroker.com shall be sent to:

ITBroker.com Inc.
539 W. Commerce St., No. 3900
Dallas, Texas 75208-1953
Attn: Legal

20. **Relationship**. Except as set forth herein, the relationship between the parties is as independent contractors, and neither party is nor shall be construed to be a partner, joint venturer, employee, agent, representative, or participant of the other party for any purpose whatsoever. Except as set forth herein, neither party shall have any right or authority whatsoever to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party or to bind the other party in any manner.

21. **Third Parties**. ITBroker.com and you are the only parties to this Agreement, and nothing in this Agreement, express or implied, is intended, is intended to, or shall confer any rights, benefits, or remedies upon any other party.

22. **Survival of Covenants.** The covenants contained in this Agreement which, by their nature or terms, require performance by the parties after the expiration or termination of this Agreement shall be enforceable notwithstanding said expiration or other termination of this Agreement for any reason whatsoever.

23. **Acceptance.** By signing your SOW, you acknowledge and represent that you have read this Agreement, that you understand and agree to its terms and provisions, you either did or had the opportunity to seek advice of counsel and that you are authorized to do so.