

TERMS AND CONDITIONS

This Terms and Conditions is part of an aggregate series of agreements which, combined by reference, create one integrated contract (the "Agreement") between Uprite ("we," or "us," including "our," and "Uprite") and Client ("you," including "your," or "Client"). Each of Uprite and Client may also be referred to as a Party and collectively as the Parties.

For any Quotes, Quotations, Proposals, Statements of Work, Sales Orders or Service Order ("Service Order") agreements executed by you (individually and collectively, "Engagements"), this document and all the applicable documents listed in the tables immediately below ("Included Agreements") are legally integrated as if fully set forth as one Agreement.

Upon each Engagement renewal, this Agreement, but not the terms of any ongoing Engagement, will be superseded by the terms and conditions set forth in the then currently published version of the Agreement available online as of the date on which your services are renewed (the "Renewal Terms"). If you do not agree to the Renewal Terms, you may decline to renew your services.

The Aggregate Set of Agreements between Client and Uprite, the Included Agreements

Applicable Agreements Integrated into All Engagements	Available Online at
Master Services Agreement	https://www.uprite.com/MSA
Service Level Agreement ("SLA")	https://www.uprite.com/SLA
Services Catalog	https://www.uprite.com/SC
Terms and Conditions	https://www.uprite.com/TC
Standard Rates	https://www.uprite.com/rates
Security Standard	https://www.uprite.com/SS

Included Agreements Integrated into Specific Engagements, as Applicable	Available Online at

1. General Terms. Headings and other formatting elements of this document are included and placed for the convenience of the reader. The text and emphasis of headings and other formatting elements used in this document are explicitly not incorporated into the agreement terms.
2. Effective Date. The Service Order is effective upon the date signed.
3. Trial Term. If a Trial Term is indicated on the Service Order, then the Service Order shall remain in force for that number of months, starting on the date of commencement of service. During the Trial Term, Client may terminate the Service Order for any reason by providing thirty days written notice to Uprite.
4. Service Order Term. Beginning on the day immediately following the last day of the Trial Term, if applicable, or if not applicable, the beginning on the date of commencement of service, the Service Order shall remain in force for the number of months indicated on the Service Order ("Service Order Term"), as selected by Client.
5. Renewal. The Service Order automatically renews for a subsequent twelve months ("Renewal Term") on the day immediately following the end of the Service Order Term and each subsequent Renewal Term unless Client notifies Uprite of its intent not to renew the Service Order by providing sixty days written notice.
6. Travel Charges.
 - a) In metropolitan areas where Uprite has a local office, travel time to and from Client's location will be charged at the Travel Time Rate referenced herein, billed in fifteen-minute increments rounded up to the nearest fifteen minutes. Parking charges incurred by Uprite for site visits will be re-billed to Client. Note,

site visits are often necessary to deliver service, or when scheduled to conduct proactive / preventative maintenance.

- b) Sometimes in lieu of a local site visit, Uprite will utilize a courier service to pick up and deliver equipment for the one-way courier fees referenced herein. Any shipping fees incurred by Uprite will be re-billed to client.
- c) Outside of metropolitan areas where Uprite has a local office, i.e., outside of Uprite's local service areas, Client will be charged hourly for labor services for site visits, with a one hour minimum. For site visits planned for six or more hours, Uprite will charge a mutually agreed upon day rate for labor services. Travel time, if incurred, will be charged at one half of the standard hourly resource billing rate. Actual travel and living expenses, based upon the GSA Travel guidelines, for the location of the performance of the services will be billed as incurred.

7. **Managed IT & Support.** The following additional terms and conditions apply to Service Orders for Managed IT & Support (which may be referred to as Complete Managed IT & Support, Complete Managed IT, Managed IT or similar) and have the services scope of ITO.

a) Coverage.

- i) Remote and onsite support services will be provided for Client's IT infrastructure by Uprite between the hours of 8:00 AM and 5:00 PM Monday through Friday US Central Time (Normal Business Hours), excluding public holidays. After hours and weekend / holiday support for critical and priority issues is available through the Uprite After Hours Help Desk line.
- ii) Server monitoring services will be provided 24 hours a day, seven days a week, 365 days a year. Alerts generated by the server monitoring service will be triaged by Uprite, and the Client may be notified before any corrective action is taken.
- iii) In the event Uprite reasonably determines that actions are required outside Normal Business Hours to address issues with Client-identified critical devices or equipment, Uprite may execute such reasonable actions without the advance consent of an Authorized Client Representative. When such actions constitute Engineering Services (See Engineering Services), Uprite will provide notice of the services rendered to Client and bill Client the After Business Hours rates as outlined herein. Client agrees to pay Uprite the After Business Hours rates for reasonable actions taken.

b) Minimum Standards for Services. For Client's existing environment to qualify for managed services, the following requirements ("Minimum Standards") must be met. If the Minimum Standards are not met, upgrades must be performed by Client resources, a third-party, or by Uprite at additional cost to Client under a separate service order as a deliverables-based project at standard bill rates. Should any hardware or systems fail to meet these provisions, they may be excluded from the Service Level Agreement and its included services.

- i) All hardware and systems must be covered under a currently active vendor support contract with replaceable parts readily available, and that all software is genuine, currently licensed and vendor supported.
- ii) All servers with Microsoft Windows Operating Systems must be running a Mainstream or Extended Support version and have all of the latest Microsoft Service Packs and critical updates installed.
- iii) All servers and network devices must be protected by a fully operational, right-sized uninterruptible power supply (UPS) to protect against loss of power. In addition, UPS's for desktops are strongly encouraged.
- iv) Client must be utilizing a Windows-based Active Directory domain controller running on a Mainstream or Extended Support version of Microsoft Server.

- v) All desktop PCs and notebooks/laptops with Microsoft Windows Operating Systems must be running a Mainstream or Extended Support version and have all the latest Microsoft Service Packs and critical updates installed.
 - vi) All desktop PCs and notebooks/laptops with Apple operating systems must maintain an operating system version no older than two (2) releases older than the most current release by Apple, Inc.
 - vii) All server and desktop software must be genuine, licensed and vendor supported.
 - viii) The environment must have a currently licensed, up-to-date, and vendor-supported server-based antivirus solution protecting all servers, desktops, notebooks/laptops and email.
 - ix) The environment must have a currently licensed, vendor-supported server-based backup solution.
 - x) The environment must have a currently licensed, vendor-supported hardware firewall between the internal network and the Internet.
 - xi) Any wireless data traffic in the environment must be secured with a minimum of WPA 128bit data encryption (WPA2 recommended and preferred) and private authentication. WEP encryption is inadequate for protection of Client's data and technology environment.
 - xii) Client will maintain a Cyber Insurance policy in force during the term of the Service Order and for a period of two years thereafter for services completed during the term of the Service Order. Client's policy will provide for Data Security & Privacy "Cyber" coverage (including coverage for unauthorized access and use, failure of security, breach of confidential information, of privacy perils, as well as breach mitigation costs and regulatory coverage). If Client does not have a Cyber Insurance policy in place at the time of execution of the Service Order, Client warrants that it will obtain a policy within three months of the Service Order effective date.
- c) Change Orders. Change Orders will be required for the execution of support activities included in the Service Order that Uprite deems prudent for the documentation of risk and complexity, and/or approval of incremental expense, such as Engineering Services. Change Orders will be provided to Client in these situations and Client approval will not be unreasonably withheld. Labor amounts listed in Change Orders are estimates and while Uprite will use reasonable efforts to work within these estimates, the actual cost will be based on Uprite's actual labor expended at standard bill rates.
- d) Administrative and Change Control.
- i) In order to provide managed services efficiently and with minimal disruption to Client's business operations, Uprite requires system administrative privileges on all supported hardware and software. Client agrees to and will provide Uprite with full administrative privileges, including domain administrator privileges, to Client's technology environment. Client acknowledges and understands that full administrative privileges are necessary for Uprite to fulfill its obligations under the Service Order. Client approves the creation of administrative accounts to be used by Uprite personnel and monitoring services during the term of the Service Order.
 - ii) Client approves unlimited access to the technology infrastructure by Uprite, and further acknowledges and understands that unlimited access is necessary for Uprite to fulfill its obligations under the Service Order. As a matter of procedure, Uprite will not access desktops or laptops without the prior permission of the user, unless access is required and the user is not available. Client also approves Uprite to perform after-hours server patch / update installation, server & desktop maintenance, and server reboots during agreed-upon maintenance windows.

- iii) Client agrees to and approves the installation of Uprite monitoring and troubleshooting agents, and help desk portal shortcuts, on all Supported Devices. Client also agrees to direct employees to not disable or uninstall Uprite agents. Client acknowledges that Uprite incurs increased cost to support devices when Uprite agents are not properly installed, and that support of devices with disabled or uninstalled agents by Client employees may be billed as Engineering Services. Client agrees to provide Microsoft Virtual Private Network (VPN) access to Uprite during the term of the Service Order. Microsoft VPN access to Client will be configured by Uprite at no additional cost to client during Setup and Provisioning.
 - iv) Uprite strongly recommends that no Client employees retain administrative privileges on supported hardware and software unless absolutely necessary. (Note that Client's confidential system administrator IDs and passwords are stored securely with Uprite in the Client's site documentation, and that Client's site documentation is the exclusive property of Client, and that site documentation is available upon request by an Authorized Client Representative at any time.) Otherwise, Uprite cannot be held responsible for issues related to change control in Client's technology environment.
 - v) In the event that a Client employee or third-party unauthorized by Uprite uses administrative privileges and causes, inadvertently or not, a technology issue that must be addressed by Uprite, the labor required to remediate said issue will be charged as Engineering Services.
 - vi) Additionally, in order to provide on-site support whenever necessary, especially in the event of an emergency, Uprite requires physical access to Client equipment. Uprite will require access to Client property accompanied by a Client employee or designated representative. Uprite will not maintain building or office keys or access control cards and as such is reliant on Client for physical access to Client equipment.
 - vii) It is understood that all services requested by Authorized Client Representative that fall outside of a Service Order's included services will be considered projects or out-of-scope services, and will be quoted and billed as separate, individual services and require prior written approval by an Authorized Client Representative.
- e) Additional Client Responsibilities.
- i) Client is responsible for maintaining an on-boarding procedure for new employees that notifies Uprite in a timely manner of a new hire so that Uprite has ample time to provision the necessary hardware and logon credentials. Uprite will assist Client in the creation of on-boarding collateral that educates the new employee on how to engage Uprite for technical support.
 - ii) Client is responsible for maintaining an employee separation procedure for departing employees that notifies Uprite in a timely manner so that Uprite has ample time to remove logon credentials and provide access to the departing employee's technology resources (email, private network folders, etc.). Each month, Uprite will inform Client of the quantity of Supported Users. The Supported User count is considered accepted by Client unless Uprite is notified within thirty days of receipt.
 - iii) Client is responsible for providing an opportunity each calendar year for Uprite to educate / train Client employees on technology support procedures and changes.
 - iv) Should vendor support result in additional charges in order to attempt issue resolution on hardware and systems, Client will be required to incur such costs.
 - v) Uprite may develop a hardware refresh plan based on industry best practices to ensure business continuity and technology stability and submit to Client for approval. Hardware purchases and implementation fees will be defined under a separate service order as a deliverables-based project at additional cost to Client.

8. **Managed Cloud Backup.** The following additional terms and conditions apply when Managed Cloud Backups (which may be referred to Rescue Stream or similar) ("Backup Service") is accepted on your Service Order.

a) General Terms.

- i) Uprite and its affiliates ("Uprite") will provide Backup Service during the term of the applicable Service Order consisting of off-site automated data protection, backup, and recovery services as described in the Services Catalog AND in connection with your use of Proprietary Software or with your use of Proprietary Hosted Services (collectively, "Software").
- ii) Managed Cloud Backup is provided in connection with your use of Software, a Backup Disaster Recovery Device ("BDR") or Local Storage Device ("LSD"), and cloud-based storage services.

b) Security.

- i) Uprite agrees to hold confidential all of your data in its possession, exercising the same degree of care that a company utilizing industry-accepted business practices would exercise with similar data of its own.
- ii) Uprite will implement reasonable security and environmental precautions to promote an appropriate level of system availability and data protection and recovery.

c) License.

- i) Uprite grants you a non-exclusive, non-transferable license to use the Software solely for your internal business purposes and in accordance with this Agreement.
- ii) Uprite does not convey any intellectual property rights of ownership of the Software, including all copyrights and other intellectual property rights vested in the Software, and all modifications to the Software (including derivative works), and changes to the Software made during the Agreement. In no event will title to all or any part of the Software pass to you.
- iii) You agree that, as between the Parties, the Software (in whole or part) remains the exclusive property of Uprite and may not be copied or used except as expressly authorized by this Agreement. Any rights not expressly granted to you under this Agreement are retained by Uprite.
- iv) You acknowledge and agree that you are acquiring only the right to use the Software, unless the Backup Service agreed to also includes a BDR or LSD, during the term of the Agreement, and you will not, and will not permit others to modify, customize, reverse engineer, reverse assemble, or reverse compile the Software or any part thereof.
- v) When the Software used in the service is produced or manufactured by an entity other than Uprite, and you interact with the Software, you agree to separately obtain and independently adhere to all applicable terms of use of the Software, as may be published and periodically updated by the Software manufacturer.

d) Use.

- i) You are responsible for any communication costs associated with the connection between your site and Uprite's Data Center, between your site and third-party data services, between your hosted infrastructure and Uprite's Data Center, and between your hosted infrastructure and third-party data services.
- ii) You must implement reasonable security and environmental precautions to ensure a high level of system availability and data protection and recovery.

- iii) You covenant and agree that you will not place any data in Uprite's offsite storage that (i) infringes the intellectual property rights or privacy rights of any third party, (ii) violates any law, statute, ordinance or regulation, (iii) is defamatory, libelous, unlawfully threatening or harassing, (iv) is obscene, or contains any viruses, Trojan horses, malware, worms, time bombs, cancel bots or other programming routines that are intended to or have the effect of damaging, detrimentally interfering with, surreptitiously intercepting, or expropriating any system, data or personal information. You will defend, indemnify and hold Uprite harmless against any third-party claim, suit or proceeding alleging any breach of these covenants.
- iv) Uprite reserves the right to limit or restrict off-site data retention if, as determined by Uprite, you engage in any activity or use the off-site retention in a manner that: (i) adversely impacts Uprite; (ii) results in excessive bandwidth or storage usage; or (iii) harms, disrupts, or otherwise diminishes the Uprite brand, services, network, or computer system.

e) Equipment.

- i) Uprite's Backup Services may include the provision of a BDR or LSD or other hardware utilized in connection with the service. Any backup device deployed to you ("Equipment") in conjunction with the Service is your property for all purposes including any and all personal property tax liabilities.
- ii) Your purchasing the BDR or LSD does not negate the provisions of licensing and use of the Software and Intellectual Property.
- iii) In the event that any BDR or LSD is damaged or destroyed, Uprite will, at your expense, deliver and install a replacement BDR or LSD containing the most recent offsite backup that was successfully uploaded to Uprite's offsite data center.
- iv) You will obtain and keep current insurance against loss or liability connected with your hardware, including the BDR or LSD, and your data. You will provide proof thereof to Uprite upon request. You are responsible for all costs of insurance and deductible amounts for any claims.

f) Warranty and Limitation of Liability.

- i) You acknowledge that you are responsible for determining whether the Backup Service is appropriate for your data protection needs.
- ii) You agree to contact Uprite immediately if you believe that the BDR, LSD, or the Software is not functioning according to standard written specifications.
- iii) You acknowledge that many factors contribute to successful recovery of data and agree that Uprite cannot guarantee recovery of any data and that any assistance provided by Uprite in recovering data is provided on a best-efforts basis.
- iv) Uprite's sole warranty is that the Backup Service substantially complies with any standard specifications provided in writing by Uprite. Your sole and exclusive remedy, and Uprite's entire liability under this Agreement is limited to the following: (i) Uprite will use reasonable commercial efforts to correct any substantial noncompliance with the above warranty; and (ii) if such non-compliance cannot be corrected after using commercially reasonable efforts, you may terminate the Agreement and receive a refund of any amounts paid since the time of the non-compliance.
- v) EXCEPT FOR THE LIMITED WARRANTY IN THE PARAGRAPH IMMEDIATELY ABOVE, UPRITE MAKES NO WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE BACKUP SERVICE, THE BDR, THE LSD, OR THE SOFTWARE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, WORKMANLIKE EFFORT, AND NEGLIGENCE. YOU ACKNOWLEDGE YOU HAVE RELIED ON

NO WARRANTIES WITH RESPECT TO THE BACKUP SERVICE, THE BDR, THE LSD, OR THE SOFTWARE IN ENTERING INTO THIS AGREEMENT.

- vi) IN NO EVENT WILL UPRITE BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL, ECONOMIC, EXPECTANCY, RELIANCE, RESTITUTIONARY, OR PROPERTY DAMAGES WHATSOEVER, INCLUDING ANY DAMAGES FOR LOSS OF DATA, LOST BUSINESS PROFITS, LOST REVENUE, BUSINESS INTERRUPTION, OR OTHER PECUNIARY LOSS ARISING FROM OR RELATING TO THE AGREEMENT. FURTHER, IN NO EVENT SHALL UPRITE'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THE AGREEMENT EXCEED THE AMOUNT OF FEES AND AMOUNTS YOU PAID UNDER THE BACKUP SERVICE AGREEMENT. YOU ACKNOWLEDGE THAT THE AMOUNTS PAID UNDER THE BACKUP SERVICE AGREEMENT REFLECT THE ALLOCATION OF RISK SET FORTH IN THE AGREEMENT AND THAT UPRITE WOULD NOT ENTER INTO THE AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. NO CLAIM MAY BE ASSERTED BY EITHER PARTY AGAINST THE OTHER WITH RESPECT TO ANY EVENT, ACT, OR OMISSION THAT OCCURRED MORE THAN ONE YEAR PRIOR TO SUCH CLAIM BEING ASSERTED.
 - vii) YOU HEREBY COVENANT NOT TO SUE, AND YOU WAIVE, DISCHARGE, AND RELEASE UPRITE FROM ANY AND ALL LIABILITY FOR ANY AND ALL LOSS OR DAMAGE TO YOUR ELECTRONIC DATA ARISING OUT OF, CAUSED BY, OR RELATED IN ANY WAY TO HOW YOU BACKED UP THE ELECTRONIC DATA.
 - viii) You release Uprite from any liability for loss of productivity resulting from or concurrent with the failover as part of this Agreement.
- g) Service Suspension and Data Forfeiture.
- i) Uprite may suspend Backup Service if you do not pay all amounts due on or before the due date of each related invoice. If payment is not received, Uprite will notify you of non-payment and that your service will be suspended. If payment is still not received within thirty (30) days following the non-payment notice, Uprite may suspend service without further notice. If Uprite does not receive payment within sixty (60) days of the non-payment notice, Uprite may terminate your services, remove stored data without additional notice, and is under no obligation to provide the forfeited data in any form nor via any means.
- h) Termination.
- i) Upon termination, you must promptly pay any amounts due and owing to Uprite and return the Software. If Software has been installed on a device, you must promptly uninstall the Software and at Uprite's sole discretion, either destroy or return all Software copies and documentation. You will certify to Uprite in writing within five (5) business days following the termination date that you have so complied and that no Software is being used or retained on any of your computers or storage devices.
 - ii) If any Rented Equipment is related to the Services in this Backup Services Agreement, your obligation with respect to such Rented Equipment shall be solely governed by the Equipment Rental Agreement as specified in the Master Services Agreement governing this Service.
 - iii) You understand that upon termination all your data, including any data maintained in an Uprite data center, will be deleted.
- i) Governance.
- i) This Agreement is not governed by the United Nations Convention on the International Sale of Goods, the application of which is expressly excluded.

- ii) The BDR, LSD, and the Software are subject to the customs and export control laws and regulations of the United States and may be subject to the customs and export laws and regulations of the country in which the products are manufactured or received. If the BDR, LSD, or Software is licensed for use outside of the United States, you agree to comply fully with all relevant export laws and regulations of the United States and the country or territory in which the Proprietary Software is used, to assure that neither the Software, nor any direct product thereof, are exported, directly or indirectly, in violation of such laws. Under United States law, the BDR and Software may not be sold, leased or otherwise transferred to restricted countries, or used by a restricted end-user or an end-user engaged in activities related to weapons of mass destruction.
- iii) If you are a branch or agency of the United States Government, the following provision applies: As defined in FAR section 2.101, DFAR section 252.227-7014(a)(1) and DFAR section 252.227-7014(a)(5) or otherwise, all Software and accompanying documentation provided by Uprite are “commercial items,” “commercial computer software,” and/or “commercial computer software documentation.” Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, disclosure, or distribution thereof by or for the US. Government is governed solely by the terms of the Agreement and is prohibited except to the extent expressly permitted by the terms of the Agreement.

9. **Managed Perimeter Protection.** The following additional terms and conditions apply when Managed Perimeter Protection (which may be referred to as Managed Firewall, Rescue Wall, or similar) (“Managed Firewall”) is accepted on your Service Order.

a) General Terms.

- i) Uprite and its affiliates (“Uprite”) will provide Managed Firewall during the term of the applicable Service Order consisting of firewall hardware and firewall-based security controls as described in the Services Catalog AND in connection with your use of Proprietary Software or with your use of Proprietary Hosted Services (collectively, “Software”).
- ii) Managed Firewall is provided in connection with your use of Software, a managed firewall (“Firewall”), and cloud-based security services.

b) Security.

- i) Uprite will implement reasonable security and environmental precautions to promote an appropriate level of system availability and data protection and recovery.

c) License.

- i) Uprite grants you a non-exclusive, non-transferable license to use the Software solely for your internal business purposes and in accordance with this Agreement.
- ii) Uprite does not convey any intellectual property rights of ownership of the Software, including all copyrights and other intellectual property rights vested in the Software, and all modifications to the Software (including derivative works), and changes to the Software made during the Agreement. In no event will title to all or any part of the Software pass to you.
- iii) You agree that, as between the Parties, the Software (in whole or part) remains the exclusive property of Uprite and may not be copied or used except as expressly authorized by this Agreement. Any rights not expressly granted to you under this Agreement are retained by Uprite.
- iv) You acknowledge and agree that you are acquiring only the right to use the Software during the term of the Agreement, and you will not, and will not permit others to modify, customize, reverse engineer, reverse assemble, or reverse compile the Software or any part thereof.

- v) When the Software used in the service is produced or manufactured by an entity other than Uprite, and you interact with the Software, you agree to separately obtain and independently adhere to all applicable terms of use of the Software, as may be published and periodically updated by the Software manufacturer.

d) Use.

- i) You are responsible for any communication costs associated with the connection between your site and Uprite's Data Center, between your site and third-party data services, between your hosted infrastructure and Uprite's Data Center, and between your hosted infrastructure and third-party data services.
- ii) You must implement reasonable security and environmental precautions to ensure a high level of system availability and data protection and recovery.
- iii) You covenant and agree that you will use Uprite's Firewall in a way that (i) infringes the intellectual property rights or privacy rights of any third party, (ii) violates any law, statute, ordinance or regulation, (iii) is defamatory, libelous, unlawfully threatening or harassing, (iv) is obscene, or contains any viruses, Trojan horses, malware, worms, time bombs, cancel bots or other programming routines that are intended to or have the effect of damaging, detrimentally interfering with, surreptitiously intercepting, or expropriating any system, data or personal information. You will defend, indemnify and hold Uprite harmless against any third-party claim, suit or proceeding alleging any breach of these covenants.
- iv) Uprite reserves the right to limit or restrict Firewall use if, as determined by Uprite, you engage in any activity that: (i) adversely impacts Uprite; (ii) results in excessive bandwidth or storage usage; or (iii) harms, disrupts, or otherwise diminishes the Uprite brand, services, network, or computer system.

e) Equipment.

- i) Uprite's Managed Firewall services includes the provision of a Firewall utilized in connection with the service. Any device deployed to you ("Equipment") in conjunction with the Service is your property for all purposes including any and all personal property tax liabilities.
- ii) Your purchasing the Firewall does not negate the provisions of licensing and use of the Software and Intellectual Property.
- iii) In the event that any Firewall is damaged or destroyed, Uprite will, at your expense, deliver and install a replacement Firewall.
- iv) You will obtain and keep current insurance against loss or liability connected with your hardware, including the Firewall. You will provide proof thereof to Uprite upon request. You are responsible for all costs of insurance and deductible amounts for any claims.

f) Warranty and Limitation of Liability.

- i) You acknowledge that you are responsible for determining whether the Managed Firewall is appropriate for your cybersecurity needs.
- ii) You agree to contact Uprite immediately if you believe that the Firewall, or the Software is not functioning according to standard written specifications.
- iii) You acknowledge that many factors contribute to cybersecurity and agree that Uprite cannot guarantee recovery of any data and that any assistance provided by Uprite in recovering data is provided on a best-efforts basis.

- iv) Uprite's sole warranty is that the Managed Firewall substantially complies with any standard specifications provided in writing by Uprite. Your sole and exclusive remedy, and Uprite's entire liability under this Agreement is limited to the following: (i) Uprite will use reasonable commercial efforts to correct any substantial noncompliance with the above warranty; and (ii) if such non-compliance cannot be corrected after using commercially reasonable efforts, you may terminate the Agreement and receive a refund of any amounts paid since the time of the non-compliance.
- v) EXCEPT FOR THE LIMITED WARRANTY IN THE PARAGRAPH IMMEDIATELY ABOVE, UPRITE MAKES NO WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE MANAGED FIREWALL, THE FIREWALL, OR THE SOFTWARE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, WORKMANLIKE EFFORT, AND NEGLIGENCE. YOU ACKNOWLEDGE YOU HAVE RELIED ON NO WARRANTIES WITH RESPECT TO THE MANAGED FIREWALL, THE FIREWALL, OR THE SOFTWARE IN ENTERING INTO THIS AGREEMENT.
- vi) IN NO EVENT WILL UPRITE BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL, ECONOMIC, EXPECTANCY, RELIANCE, RESTITUTIONARY, OR PROPERTY DAMAGES WHATSOEVER, INCLUDING ANY DAMAGES FOR LOSS OF DATA, LOST BUSINESS PROFITS, LOST REVENUE, BUSINESS INTERRUPTION, OR OTHER PECUNIARY LOSS ARISING FROM OR RELATING TO THE AGREEMENT. FURTHER, IN NO EVENT SHALL UPRITE'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THE AGREEMENT EXCEED THE AMOUNT OF FEES AND AMOUNTS YOU PAID UNDER THE MANAGED FIREWALL SERVICE AGREEMENT. YOU ACKNOWLEDGE THAT THE AMOUNTS PAID UNDER THE MANAGED FIREWALL SERVICE AGREEMENT REFLECT THE ALLOCATION OF RISK SET FORTH IN THE AGREEMENT AND THAT UPRITE WOULD NOT ENTER INTO THE AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. NO CLAIM MAY BE ASSERTED BY EITHER PARTY AGAINST THE OTHER WITH RESPECT TO ANY EVENT, ACT, OR OMISSION THAT OCCURRED MORE THAN ONE YEAR PRIOR TO SUCH CLAIM BEING ASSERTED.
- vii) YOU HEREBY COVENANT NOT TO SUE, AND YOU WAIVE, DISCHARGE, AND RELEASE UPRITE FROM ANY AND ALL LIABILITY FOR ANY AND ALL LOSS OR DAMAGE TO YOUR ELECTRONIC DATA ARISING OUT OF, CAUSED BY, OR RELATED IN ANY WAY TO HOW YOU SECURE ELECTRONIC DATA.
- viii) You release Uprite from any liability for loss of productivity resulting from or concurrent with the failover as part of this Agreement.
- g) Service Suspension and Data Forfeiture.
 - i) Uprite may suspend Managed Firewall if you do not pay all amounts due on or before the due date of each related invoice. If payment is not received, Uprite will notify you of non-payment and that your service will be suspended. If payment is still not received within thirty (30) days following the non-payment notice, Uprite may suspend service without further notice. If Uprite does not receive payment within sixty (60) days of the non-payment notice, Uprite may terminate your services, remove Firewall configurations without additional notice, and is under no obligation to provide the forfeited configuration in any form nor via any means.
- h) Termination.
 - i) Upon termination, you must promptly pay any amounts due and owing to Uprite and return the Software. If Software has been installed on a device, you must promptly uninstall the Software and at Uprite's sole discretion, either destroy or return all Software copies and documentation. You will certify to Uprite in writing within five (5) business days following the termination date that you have so complied and that no Software is being used or retained on any of your computers or storage devices.

- ii) If any Rented Equipment is related to the Services in this Manage Firewall Services Agreement, your obligation with respect to such Rented Equipment shall be solely governed by the Equipment Rental Agreement as specified in the Master Services Agreement governing this Service.
 - iii) You understand that upon termination all your data, including any data maintained in an Uprite data center, will be deleted.
- i) Governance.
- i) This Agreement is not governed by the United Nations Convention on the International Sale of Goods, the application of which is expressly excluded.
 - ii) The Firewall and the Software are subject to the customs and export control laws and regulations of the United States and may be subject to the customs and export laws and regulations of the country in which the products are manufactured or received. If the Firewall or Software is licensed for use outside of the United States, you agree to comply fully with all relevant export laws and regulations of the United States and the country or territory in which the Proprietary Software is used, to assure that neither the Software, nor any direct product thereof, are exported, directly or indirectly, in violation of such laws. Under United States law, the Firewall and Software may not be sold, leased or otherwise transferred to restricted countries, or used by a restricted end-user or an end-user engaged in activities related to weapons of mass destruction.
 - iii) If you are a branch or agency of the United States Government, the following provision applies: As defined in FAR section 2.101, DFAR section 252.227-7014(a)(1) and DFAR section 252.227-7014(a)(5) or otherwise, all Software and accompanying documentation provided by Uprite are “commercial items,” “commercial computer software,” and/or “commercial computer software documentation.” Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, disclosure, or distribution thereof by or for the US. Government is governed solely by the terms of the Agreement and is prohibited except to the extent expressly permitted by the terms of the Agreement.