

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 8-K**

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): October 1, 2015

**CloudCommerce, Inc.**

(Exact name of registrant as specified in its charter)

**Nevada**

(State or other jurisdiction of incorporation)

**0-13215**

(Commission File Number)

**30-0050402**

(I.R.S. Employer Identification No.)

**1933 Cliff Drive, Suite 11, Santa Barbara, California**

(Address of principal executive offices)

**93109**

(Zip Code)

**(805) 964-3313**

(Registrant's telephone number, including area code)

**Warp 9, Inc.**

(Former name, former address and former fiscal year, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions.

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR240.14d-2(b))
- Soliciting material pursuant to Rule 14a-12 under Exchange Act (17 CFR240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**SECTION 2. FINANCIAL INFORMATION**

**ITEM 2.01 Completion of Acquisition or Disposition of Assets.**

On October 1, 2015, CloudCommerce, Inc., a Nevada corporation ("CCI" or the "Company") closed the agreement and plan of merger (the "Agreement"), with Indaba Group, LLC, a Colorado limited liability company ("Indaba"), Warp 9, Inc., a Delaware corporation and wholly owned subsidiary of the Company (the "Merger Sub"), and Ryan Shields, an individual holding outstanding membership interests of Indaba, Blake Gindi, an individual holding outstanding membership interests of Indaba, and Jack Gindi, an individual holding outstanding membership interests of Indaba (collectively, the "Sellers" or "Indaba Members"), pursuant to which Indaba merged with and into the Merger Sub and the Merger Sub, as the surviving entity, changed its name to Indaba Group, Inc. ("IGI"). The Sellers will receive a total of two million dollars (\$2,000,000.00) paid in the form of the issuance of ten thousand (10,000) shares of the Company's Series A Convertible Preferred Stock (the "Series A Preferred Stock"), at a liquidation preference of two hundred dollars (\$200.00) per share, which have the rights, preferences and privileges as set forth in the Certificate of Designation, the form of which is attached to this Report as Exhibit 3.1.

Effective as of the closing of the Agreement, the boards of directors of CCI and IGI each consist of five members, Ryan Shields, Blake Gindi, Andrew Van Noy, Zachary Bartlett, and Gregory Boden. See Item 5.02 of this Report on Form 8-K for additional information regarding Ryan Shields and Blake Gindi.

IGI is headquartered in a 3,300 square foot facility at 2854 Larimer Street, Denver, Colorado. IGI is engaged in the business of providing technology services and solutions specializing in enterprise software development, ecommerce, creative services, and customer experience management. The services provided by IGI include the following: (i) enterprise solutions (business process analysis, cloud computing solutions and consulting, community management and marketing strategy, creative and branding services, custom application development, customer relationship management solutions and integration, enterprise application integration, enterprise content management systems, enterprise messaging and collaboration platform development, loyalty system development, mobile application development, social and gamification consulting, and platform development), (ii) e-commerce development (third party integrations, customer module development, data management and strategy, Ebay and Amazon integration, Ebay enterprise solutions, Magento enterprise custom

deployment, Magento site audit, Magento site maintenance and support, Magento site upgrade, managed services, mobile ecommerce, multilingual/multicurrency, multisite/multistore, subscription and recurring billing payment solutions, Oro commerce, and BigCommerce), (iii) digital marketing analytics and reporting, audience insights, campaign management, community engagement, conversion rate optimization, and email marketing, and (iv) creative design (branding, discovery, graphic design, multisite/multistore, responsive design, and usability).

## SECTION 5. CORPORATE GOVERNANCE AND MANAGEMENT

### **Item 5.02. Departure of Directors and Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers**

*General.* On October 1, 2015, Ryan Shields and Blake Gindi were appointed as directors of CCI and IGI.

Effective as of October 1, 2015 and pursuant to the terms of the Agreement, Ryan Shields and Blake Gindi will be employees of IGI for two years. Mr. Shields will serve as the chief executive officer of IGI. Blake Gindi will serve as the chief technology officer of IGI.

-2-

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#### *Compensation Arrangements.*

Effective as of October 1, 2015, CCI entered into an employment agreement with Ryan Shields pursuant to which Mr. Shields will serve as the chief executive officer of IGI in consideration for annual compensation in the amount of \$175,000. Mr. Shields is eligible to receive a bonus or bonuses during each year, as mutually determined by IGI and CCI. During the term of the employment agreement, Mr. Shields may not directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, stockholder (in a private company), corporate officer, director, or in any other individual or representative capacity, engage or participate in any business that is in direct competition with the business of IGI or its affiliates.

Effective as of October 1, 2015, CCI entered into an employment agreement with Blake Gindi pursuant to which Mr. Gindi will serve as the chief technology officer of IGI in consideration for annual compensation in the amount of \$175,000. Mr. Gindi is eligible to receive a bonus or bonuses during each year, as mutually determined by IGI and CCI. During the term of the employment agreement, Mr. Gindi may not directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, stockholder (in a private company), corporate officer, director, or in any other individual or representative capacity, engage or participate in any business that is in direct competition with the business of IGI or its affiliates.

#### *Biographical Information.*

**Ryan Shields**, age 37, co-founded Indaba in October 2010 and was its chief executive officer from its inception until Indaba's merger with the Merger Sub at which time he was appointed as the chief executive officer of IGI. Mr. Shields brings experience in global payments, telecommunications, hospitality, fast moving consumer goods, and digital marketing, through his work at companies including VISA (UK) where he was a business analyst from 1999 to 2002, NTT/VERIO (UK) (from 2002 to 2004), Chez Bean Restaurant Group (South Africa) where he was the president from 2005 to 2007), and Moodia (UK) where he was the vice president of business development from 2006 to 2009. From January 2009 until co-founding Indaba, Mr. Shields was an independent business development consultant to various digital companies. Mr. Shields received a Bachelor of Business Administration degree from the University of South Africa in 2001. He also received a diploma in management accounting and finance from The Business School of South Africa in 2006.

**Blake Gindi**, age 32, co-founded Indaba in October 2010 and was its director of eCommerce from inception until January 2014, and its chief technology officer from January 2014 until Indaba's merger with the Merger Sub at which time he was appointed as the chief technology officer of IGI. Prior to co-founding Indaba, from 2006 to 2011, Mr. Gindi worked as an independent consultant to several agencies and merchants providing eCommerce and creative expertise in the areas of web development, project management, branding and advertising, graphic design, and search engine marketing solutions. Mr. Gindi received his Bachelor of Fine Arts degree in graphic design from Colorado State University in 2006 and his Associates of Applied Science degree in web design and interactive media from the Art Institute of Colorado in 2008.

## SECTION 7. REGULATION FD DISCLOSURE.

*Press Release.* The information in this Item 7.01 of the Report is furnished pursuant to Item 7.01 and shall not be deemed "filed" for any purpose, including for the purposes of Section 18 of the Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that Section. The

-3-

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information in this Report on Form 8-K shall not be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended or the Exchange Act regardless of any general incorporation language in such filing.

On October 6, 2015, the Company issued a press release. The text of the press release is attached herewith as Exhibit 99.1.

**SECTION 9. FINANCIAL STATEMENTS, PRO FORMA FINANCIALS & EXHIBITS**

(d) Exhibits

- 3.1 Certificate of Designation for Series A Preferred Stock.
- 10.1 Statement of Merger between Indaba Group, LLC, a Colorado limited liability company, and Warp 9, Inc., a Delaware corporation.
- 10.2 Certificate of Merger of Domestic Corporation and Foreign Limited Liability Corporation between Warp 9, Inc., a Delaware corporation, and Indaba Group, LLC, a Colorado limited liability company.
- 10.3 Employment Agreement between Indaba Group, Inc., a Delaware corporation, and Ryan Shields.
- 10.4 Employment Agreement between Indaba Group, Inc., a Delaware corporation, and Blake Gindi.
- 99.1 Press Release, dated October 6, 2015.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**CLOUDCOMMERCE, INC.**

\_\_\_\_\_  
(Registrant)

Date: October 6, 2015

/s/ Andrew Van Noy.  
Andrew Van Noy, Chief Executive  
Officer and President

STATE OF NEVADA

BARBARA K. CEGAVSKE  
*Secretary of State*



JEFFERY LANDERFELT  
*Deputy Secretary  
for Commercial Recordings*

OFFICE OF THE  
SECRETARY OF STATE

**Certified Copy**

September 22, 2015

**Job Number:** C20150922-1434  
**Reference Number:**  
**Expedite:**  
**Through Date:**

The undersigned filing officer hereby certifies that the attached copies are true and exact copies of all requested statements and related subsequent documentation filed with the Secretary of State's Office, Commercial Recordings Division listed on the attached report.

<b>Document Number(s)</b>	<b>Description</b>	<b>Number of Pages</b>
20150418621-90	Certificate of Designation	6 Pages/1 Copies



Respectfully,

Handwritten signature of Barbara K. Cegavske in black ink.

BARBARA K. CEGAVSKE  
Secretary of State

Certified By: Diana Speltz  
Certificate Number: C20150922-1434  
You may verify this certificate  
online at <http://www.nvsos.gov/>

**Commercial Recording Division**  
202 N. Carson Street  
Carson City, Nevada 89701-4201  
Telephone (775) 684-5708  
Fax (775) 684-7138



\*150103\*



BARBARA K. CEGAVSKE  
Secretary of State  
202 North Carson Street  
Carson City, Nevada 89701-4201  
(775) 684-5708  
Website: www.nvsos.gov

**Certificate of Designation**  
(PURSUANT TO NRS 78.1955)

Filed in the office of <i>Barbara K. Cegavske</i> Barbara K. Cegavske Secretary of State State of Nevada	Document Number <b>20150418621-90</b>
	Filing Date and Time <b>09/22/2015 9:17 AM</b>
	Entity Number <b>C1556-2002</b>

USE BLACK INK ONLY - DO NOT HIGHLIGHT

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**Certificate of Designation For**  
**Nevada Profit Corporations**  
**(Pursuant to NRS 78.1955)**

1. Name of corporation:

Warp 9, Inc.

2. By resolution of the board of directors pursuant to a provision in the articles of incorporation this certificate establishes the following regarding the voting powers, designations, preferences, limitations, restrictions and relative rights of the following class or series of stock.

The initial series of the Corporation's Preferred Stock shall be designated "Series A Preferred Stock". The number of shares constituting the Series A Preferred Stock shall be Ten Thousand (10,000) shares. Each share of Series A Preferred Stock is convertible into Ten Thousand (10,000) shares of Common Stock of the Corporation, as adjusted in accordance with Section 3 of the Certificate of Designation. The Series A Preferred Stock shall have the rights, preferences and privileges set forth in the Certificate of Designation.

3. Effective date of filing: (optional)

September 22, 2015

(must not be later than 90 days after the certificate is filed)

4. Signature: (required)

X

Signature of Officer

**Filing Fee: \$175.00**

**IMPORTANT:** Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

*This form must be accompanied by appropriate fees.*

Nevada Secretary of State Stock Designation  
Revised: 1-5-15

**Reset**

**CERTIFICATE OF DESIGNATION  
OF  
WARP 9, INC.**

1. The name of the corporation is Warp 9, Inc. (the "Corporation").
2. By resolution of the board of directors pursuant to a provision in the articles of incorporation this certificate establishes the following regarding the voting powers, designations, preferences, limitations, restrictions and relative rights of the following class or series of stock.

The initial series of the Corporation's Preferred Stock shall be designated "Series A Preferred Stock". The number of shares constituting the Series A Preferred Stock shall be Ten Thousand (10,000) shares. Each share of Series A Preferred Stock is convertible into Ten Thousand (10,000) shares of Common Stock of the Corporation, as adjusted in accordance with Section 3 below. The Series A Preferred Stock shall have the rights, preferences and privileges set forth below:

Section 1. Dividends. The holders of outstanding shares of the Series A Preferred Stock shall be entitled to receive dividends, payable quarterly, out of any assets of the Corporation legally available therefor, at the rate of Eight Dollars (\$8.00) per share per annum, or Two Dollars (\$2.00) per quarter (as adjusted for any combinations, consolidations, stock distributions or stock dividends with respect to such shares), payable in preference and priority to any payment of any dividend on the Common Stock. The right to such dividend on the Series A Preferred Stock shall be cumulative. If the Board of Directors shall elect to make further distribution of dividends after all dividends on the Series A Preferred Stock, as required by this Section 1, shall have been paid or declared and set apart for payment to holders of the Series A Preferred Stock, such dividends shall be made equally to all outstanding shares, preferred and common on an as-if converted basis.

Section 2. Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary, the holder of each outstanding share of the Series A Preferred Stock shall be entitled to receive, out of the assets of the Corporation available for distribution to its shareholders upon such liquidation, whether such assets are capital or surplus of any nature, an amount equal to Two Hundred Dollars (\$200.00) for each such share of the Series A Preferred Stock (as adjusted for any combinations, consolidations, stock distributions or stock dividends with respect to such shares), plus all dividends, if any, declared and unpaid thereon as of the date of such distribution, before any payment shall be made or any assets distributed to the holders of the Common Stock, and, after such payment, the remaining assets of the Corporation shall be distributed the holders of Common Stock.

- (a) If the assets to be distributed pursuant to Section 2 above to the holders of the Series A Preferred Stock shall be insufficient to permit the receipt by such holders of the full preferential amounts aforesaid, then all of such assets shall be distributed among such holders of Series A Preferred Stock ratably in accordance with the number of such shares then held by each such holder.
- (b) The sale of all or substantially all of the Corporation's assets, any consolidation or merger of the Corporation with or into any other corporation or other entity or person, or any other corporate reorganization, in which the stockholders of the Corporation immediately prior to such consolidation, merger or reorganization, own less than fifty percent (50%) of the Corporation's voting power immediately after such consolidation, merger or reorganization, or any transaction or series of related transactions to which the Corporation is a party in which in excess of fifty percent (50%) of the Corporation's voting power is transferred, excluding any consolidation or merger effected exclusively to change the domicile of the Corporation, shall be deemed to be a liquidation, dissolution or winding up within the meaning of this Section 2.

Section 3. Conversion. The Series A Preferred Stock shall be subject to conversion into Common Stock upon the following terms and conditions:

(a) Timing of Conversion.

- (i) Conversion by the Holder. The shares of Series A Preferred Stock held by any holder may be converted in Common Stock as set forth herein, at the option of the holder according to the following schedule: one-third of the shares received by the holder may be converted beginning one year after the first date on which a share of Series A Preferred Stock was issued (the "Original Issue Date"); one-third of such shares may be converted beginning two (2) years after the Original Issue Date; and the remaining one-third of such shares may be converted beginning three years after the Original Issue Date. Notwithstanding the foregoing schedule, holders of Series A Preferred Stock may convert their shares into Common Stock effective immediately prior to the sale of all or substantially all of the Corporation's assets.
- (ii) Conversion at the Option of the Corporation. Prior to any event described in Section 2(b), above, the Corporation may, at its sole option, by written notice given to the holders of the Series A Preferred Stock, cause to have such holder's shares of Series A Preferred Stock converted into Common Stock, with such conversion being deemed to have occurred immediately prior to the closing of such event.

(b) Mechanics of Conversion.

- (i) Voluntary Conversion. As a condition to any conversion of shares of the Series A Preferred Stock pursuant to Section 3(a)(i) above, the holder of the shares to be converted shall surrender the certificate or certificates therefor, duly endorsed, at the principal office of the Corporation or of any transfer agent for such stock, and shall deliver a written notice to the Secretary of the Corporation at the Corporation's principal office stating the number of such shares of the Series A Preferred Stock to be converted. Promptly thereafter, the Corporation shall issue and deliver to such holder a certificate for the number of shares of the Common Stock to which such holder shall be thereby entitled. In addition, if less than all the shares represented by such certificate(s) are surrendered for conversion, the Corporation shall issue and deliver to such holder a new certificate for the balance of the shares of Series A Preferred Stock not so converted. The effective date of such conversion shall be the close of business on the later of the date on which a proper notice is received by the Secretary of the Corporation or the date the duly endorsed certificate(s) is (are) received by the Corporation or the transfer agent, and the person or persons entitled to receive the shares of the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares on such effective date.
- (ii) Conversion at the Option of the Corporation. In the case of conversion pursuant to Section 3(a)(ii) above, every outstanding share of the Series A Preferred Stock shall be converted automatically without any further action by the holder of such share and whether or not the certificate representing such share shall be surrendered to the Corporation or the transfer agent for such stock; provided, however, that the Corporation shall not be obligated to issue a certificate evidencing the shares of the Common Stock issuable upon such conversion unless the certificate evidencing such share of the Series A Preferred Stock shall be surrendered at the principal office of the Corporation or at the principal office of such transfer agent. Upon such surrender, the Corporation shall promptly issue and deliver to such holder a certificate for the number of shares of the Common Stock to which such holder shall be thereby entitled. The effective date of such conversion shall be the close of business on the date of the occurrence of the event described in Section 3(a)(ii) above. The person or persons entitled to receive the shares of the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares on such effective date.
- (c) Conversion Ratio. Each share of Series A Preferred Stock is convertible into Ten Thousand (10,000) shares of the Corporation's fully paid and nonassessable shares of Common Stock (the "Conversion Ratio"), as adjusted pursuant to Section 3.
- (d) Adjustments to Conversion Ratio for Stock Dividends, Consolidations and Subdivisions. In case the Corporation at any time after the first issuance of a share of the Series A Preferred Stock shall declare or pay on the Common Stock any dividend



in shares of Common Stock, or effect a subdivision of the outstanding shares of the Common Stock into a greater number of shares of the Common Stock (by reclassification or otherwise than by payment of a dividend payable in shares of the Common Stock), or shall combine or consolidate the outstanding shares of the Common Stock into a lesser number of shares of the Common Stock (by reclassification or otherwise), then, and in each such case, the Conversion Ratio (as previously adjusted) in effect immediately prior to such declaration, payment, subdivision, combination or consolidation shall, concurrently with the effectiveness of such declaration, payment, subdivision, combination or consolidation, be proportionately adjusted.

- (e) Adjustments for Reclassifications and Certain Reorganizations. In case the Corporation at any time after the first issuance of a share of the Series A Preferred Stock shall reclassify or otherwise change the outstanding shares of the Common Stock, whether by capital reorganization, reclassification or otherwise, or shall consolidate with or merge with or into any other corporation where the Corporation is not the surviving corporation but not otherwise, then, and in each such case, each outstanding share of the Series A Preferred Stock shall, immediately after the effectiveness of such reclassification, other change, consolidation or merger, be convertible into the type and amount of stock and other securities or property which the holder of that number of shares of the Common Stock into which such share of the Series A Preferred Stock would have been convertible pursuant to Section 3(c) above immediately before the effectiveness of such reclassification, other change, consolidation or merger would be entitled to receive in respect of such shares of the Common Stock as the result of such reclassification, other change, consolidation or merger.
- (f) Fractional Shares. No fractional shares of the Common Stock shall be issuable upon the conversion of shares of the Series A Preferred Stock and the Corporation shall pay the cash equivalent of any fractional share upon such conversion.
- (g) Reservation of Stock Issuable Upon Conversion. The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of the Common Stock, solely for the purpose of effecting the conversion of the Series A Preferred Stock, such number of shares of the Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock; and if at any time the number of authorized but unissued shares of the Common Stock shall not be sufficient to effect the conversion of all outstanding shares of the Series A Preferred Stock, the Corporation will take such corporate action as is necessary to increase its authorized by unissued shares of the Common Stock to such number of shares as shall be sufficient for such purpose.

Section 4. Notices. Any notice required by the provisions of this Certificate of Incorporation to be given to holders of shares of the Series A Preferred Stock shall be deemed given three days following the date on which mailed by certified mail, return receipt requested,

postage prepaid, addressed to such holder at the address last appearing on the books of the Corporation for such holder or given by such holder to the Corporation for the purpose of notice, or if no such address appears or is so given, at the principal office of the Corporation, or upon personal delivery to the aforementioned address.

Section 5. Voting Rights. Except as otherwise required by law, and subject to Section 7, below, the holders of the Series A Preferred Stock shall have no voting rights.

Section 6. Protective Provisions. So long as any shares of the Series A Preferred Stock shall remain outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock voting together as a class:


- (a) alter or change the rights, preferences or privileges of the shares of the Series A Preferred Stock so as to affect materially and adversely such shares; or
- (b) create any new class of shares having preference over the Series A Preferred Stock.

Section 7. Status of Converted Stock. In the event any shares of the Series A Preferred Stock shall be converted pursuant to Section 3 above, the shares so converted shall be cancelled and shall revert to the Corporation's authorized but unissued Preferred Stock.

Section 8. Transferability. The Series A Preferred Stock shall not be transferable, provided that in the event of the death of a holder of shares of the Series A Preferred Stock, to the heirs or estate of such person.

3. Effective date of filing: Immediate.

4. Signature:

By:   
\_\_\_\_\_  
Andrew Van Noy, President

Document processing fee  
 If document is filed on paper \$150.00  
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 Fees & forms/cover sheets are subject to change.  
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**Statement of Merger**  
**(Surviving Entity is a Foreign Entity)**  
 filed pursuant to § 7-90-203.7 and § 7-90-204.5 of the Colorado Revised Statutes (C.R.S.)

1. For each merging entity, its ID number (if applicable), entity name or true name, form of entity, jurisdiction under the law of which it is formed, and principal address are

*(Caution: At least one merging entity must be an entity formed under the laws of Colorado.)*

ID Number 20101592701  
*(Colorado Secretary of State ID number)*

Entity name or true name INDABA GROUP, LLC

Form of entity Limited Liability Company

Jurisdiction Colorado

Street address 2854 Larimer Street  
*(Street number and name)*

Denver CO 80205  
*(City) (State) (ZIP/Postal Code)*

*(Province - if applicable) (Country)*

Mailing address  
 (leave blank if same as street address)   
*(Street number and name or Post Office Box information)*

*(City) (State) (ZIP/Postal Code)*

*(Province - if applicable) (Country)*

ID Number   
*(Colorado Secretary of State ID number)*

Entity name or true name

Form of entity

**Jurisdiction**

\_\_\_\_\_

**Street address**

\_\_\_\_\_

(Street number and name)

\_\_\_\_\_

(City)

(State)

(ZIP/Postal Code)

\_\_\_\_\_

(Province - if applicable)

(Country)

**Mailing address**

(leave blank if same as street address)

\_\_\_\_\_

(Street number and name or Post Office Box information)

\_\_\_\_\_

(City)

(State)

(ZIP/Postal Code)

\_\_\_\_\_

(Province - if applicable)

(Country)

**ID Number**

\_\_\_\_\_

(Colorado Secretary of State ID number)

**Entity name or true name**

\_\_\_\_\_

**Form of entity**

\_\_\_\_\_

**Jurisdiction**

\_\_\_\_\_

**Street address**

\_\_\_\_\_

(Street number and name)

\_\_\_\_\_

(City)

(State)

(ZIP/Postal Code)

\_\_\_\_\_

(Province - if applicable)

(Country)

**Mailing address**

(leave blank if same as street address)

\_\_\_\_\_

(Street number and name or Post Office Box information)

\_\_\_\_\_

(City)

(State)

(ZIP/Postal Code)

\_\_\_\_\_

(Province - if applicable)

(Country)

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

There are more than three merging entities and the ID number (if applicable), entity name or true name, form of entity, jurisdiction under the law of which it is formed, and the principal address of each additional merging entity is stated in an attachment.

2. For the surviving entity which is a foreign entity, its entity ID number (if applicable), entity name or true name, form of entity, jurisdiction under the law of which it is formed, and principal address are

(Caution: The surviving entity cannot be an entity formed under the laws of Colorado.)

**ID Number**

\_\_\_\_\_

(Colorado Secretary of State ID number)

Entity name or true name Warp 9, Inc.

Form of entity Corporation

Jurisdiction Delaware

Street address 1933 Cliff Drive, Suite 11  
*(Street number and name)*

Santa Barbara CA 93109  
*(City) (State) (ZIP/Postal Code)*

*(Province - if applicable) (Country)*

Mailing address  
(leave blank if same as street address) \_\_\_\_\_  
*(Street number and name or Post Office Box information)*

\_\_\_\_\_

*(City) (State) (ZIP/Postal Code)*

*(Province - if applicable) (Country)*

3. Each merging entity has been merged into the surviving foreign entity.

4. *(If the following statement applies, adapt the statement by marking the box and state the appropriate document number(s).)*

One or more of the merging entities is a registrant of a trademark described in a filed document in the records of the secretary of state and the document number of each filed document is

Document number \_\_\_\_\_

Document number \_\_\_\_\_

Document number \_\_\_\_\_

*(If the following statement applies, adapt the statement by marking the box and include an attachment.)*

There are more than three trademarks and the document number of each additional trademark is stated in an attachment.

5. *(Mark the applicable box and complete the statement. Caution: Mark only one box.)*

The surviving foreign entity maintains a registered agent in this state.

OR

The surviving foreign entity does not maintain a registered agent in this state and service of process may be addressed to the entity and mailed to the principal address pursuant to section 7-90-704 (2), C.R.S.

OR

The surviving foreign entity has not maintained a registered agent in this state and appoints a registered agent to accept service pursuant to section 7-90-204.5, C.R.S. The person appointed as registered agent has consented to being so appointed. Such registered agent's name and address are

Name  
(if an individual)

\_\_\_\_\_

*(Last) (First) (Middle) (Suffix)*

OR

(if an entity)  
(Caution: Do not provide both an individual and an entity name.)

Street address \_\_\_\_\_  
(Street number and name)  
\_\_\_\_\_  
(City) CO (ZIP Code)

Mailing address  
(leave blank, if same as street address) \_\_\_\_\_  
(Street number and name or Post Office Box information)  
\_\_\_\_\_  
(City) CO (ZIP Code)

6. (If applicable, adopt the following statement by marking the box and include an attachment.)

This document contains additional information as provided by law.

7. (Caution: Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)


The delayed effective date and, if applicable, time of this document are \_\_\_\_\_  
(mm/dd/yyyy) hour:minute:am/pm

Notice:

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that such document is such individual's act and deed, or that such individual in good faith believes such document is the act and deed of the person on whose behalf such individual is causing such document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S. and, if applicable, the constituent documents and the organic statutes, and that such individual in good faith believes the facts stated in such document are true and such document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is identified in this document as one who has caused it to be delivered.

8. The true name and mailing address of the individual causing this document to be delivered for filing are

 Shields Ryan  
(Last) (First) (Middle) (Suffix)  
2854 Larimer Street  
(Street number and name or Post Office Box information)  
Denver CO 80205  
(City) (State) (ZIP/Postal Code)  
(Province - if applicable) (Country)

(If applicable, adopt the following statement by marking the box and include an attachment.)  
 This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

**Disclaimer:**

This form/cover sheet, and any related instructions, are not intended to provide legal, business or tax advice, and are furnished without representation or warranty. While this form/cover sheet is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form/cover sheet. Questions should be addressed to the user's legal, business or tax advisor(s).

# Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"INDABA GROUP, LLC", A COLORADO LIMITED LIABILITY COMPANY, WITH AND INTO "WARP 9, INC." UNDER THE NAME OF "WARP 9, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE ON THE FIRST DAY OF OCTOBER, A.D. 2015, AT 12:04 O`CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.



3080995 8100M  
SR# 20150340491

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Handwritten signature of Jeffrey W. Bullock in black ink, written over a grey rectangular background.

Jeffrey W. Bullock, Secretary of State

Authentication: 10168902  
Date: 10-01-15



**STATE OF DELAWARE  
CERTIFICATE OF MERGER OF  
DOMESTIC CORPORATION AND  
FOREIGN LIMITED LIABILITY COMPANY**

Pursuant to Title 8, Section 264(e) of the Delaware General Corporation Law, the undersigned corporation executed the following Certificate of Merger:

**FIRST:** The name of the surviving corporation is Warp 9, Inc.  
a Delaware Corporation, and the name of the  
limited liability company being merged into this surviving corporation is  
Indaba Group, LLC a (list jurisdiction) Colorado limited  
liability company.

**SECOND:** The Agreement of Merger has been approved, adopted, certified, executed and acknowledged by the surviving corporation and the merging limited liability company.

**THIRD:** The name of the surviving corporation is Warp 9, Inc.

**FOURTH:** The merger is to become effective on October 1, 2015.

**FIFTH:** The Agreement of Merger is on file at 1933 Cliff Drive,  
Suite 11, Santa Barbara, CA 93109  
the place of business of the surviving corporation.

**SIXTH:** A copy of the Agreement of Merger will be furnished by the corporation on request, without cost, to any stockholder of any constituent corporation or member of any constituent limited liability company.

**SEVENTH:** The Certificate of Incorporation of the surviving corporation shall be its Certificate of Incorporation.

**IN WITNESS WHEREOF,** said Corporation has caused this certificate to be signed by an authorized officer, the 24<sup>th</sup> day of September, A.D., 2015.

By:   
Authorized Officer

Name: Andrew Van Noy  
Print or Type

Title: President

## EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement") is made as of the October 1, 2015, by and between Indaba Group, Inc., a Delaware corporation (the "Company", which is a wholly owned subsidiary of CloudCommerce, Inc., (formerly Warp 9, Inc.) a Nevada corporation ("CloudCommerce"), and Ryan Shields, an individual ("Employee"), and is made with respect to the following facts:

**RECITALS**

A. The Company and the Employee wish to ensure that the Company will receive the benefit of Employee's loyalty and service during Employee's tenure and that the Employee will be appropriately treated and compensated for services rendered.

B. The parties have entered into this Agreement for the purpose of setting forth the terms of employment of the Employee by the Company.

**NOW, THEREFORE**, in consideration of the premises and mutual covenants herein contained, **THE PARTIES HERETO AGREE AS FOLLOWS:**

1 . **Employment of Employee and Duties.** The Company hereby hires Employee and Employee hereby accepts employment upon the terms and conditions described in this Agreement. The Employee shall be the Chief Executive Officer of the Company, with the responsibility for the day-to-day management of the Company's operations. Subject to (a) the general supervision of the board of directors of the Company (the "Board of Directors"), and (b) the Employee's duty to report to the Board of Directors periodically, as specified by them from time-to-time, Employee shall have all of the authority to perform his employment duties for the Company.

2 . **Time and Effort.** Employee agrees to devote his full working time and attention to the management of the Company's business affairs, the implementation of its strategic plan, as determined by the Board of Directors, and the fulfillment of his duties and responsibilities as Chief Executive Officer. Expenditure of a reasonable amount of time for personal matters and business and charitable activities shall not be deemed to be a breach of this Agreement, provided that those activities do not materially interfere with the services required to be rendered to the Company under this Agreement.

3 . **The Company's Authority.** Employee agrees to comply with the Company's reasonable rules and regulations as adopted by the Company's Board of Directors regarding performance of his duties, and to carry out and perform those orders, directions and policies established by the Company with respect to his engagement. Employee shall promptly notify the Company's Board of Directors of any objection he has to the Board's directives and the reasons for such objection.

-1-

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4 . **Noncompetition by Employee.** Employee is subject to noncompetition obligations pursuant to Section 3.1 of that certain Agreement and Plan of Merger, dated as of June 26, 2015, by and among Indaba Group, LLC, a Colorado limited liability company, Employee, Blake Gindi, Jack Gindi, CloudCommerce, and Warp 9, Inc., a Delaware corporation (the "Merger Agreement"). Upon the expiration of the term of those obligations, and if Employee is then employed by the Company, then thereafter and throughout the remaining term of this Agreement, Employee shall not, directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, stockholder (in a private company), corporate officer, director, or in any other individual or representative capacity, engage or participate in any business that is in direct competition with the business of the Company or its affiliates. Furthermore, any commissions, referral fees or other compensation paid to Employee by other payors during the term of this Agreement will be the property of the Company, and therefore, all such compensation will promptly be remitted by Employee to the Company.

5 . **Term of Agreement.** Subject to earlier termination as provided herein, the term of this Agreement shall be for two (2) years. Notwithstanding the foregoing, the Company and Employee agree that Employee's employment hereunder may be terminated by the Employee resigning with "Good Reason" or by the Company's declaration of termination with "Cause" at any time, subject to the terms of this Section 5 and Section 6. Such termination shall be effective upon delivery of written notice from the acting party to the other of its election to terminate employment pursuant to this Section 5. "Cause" when used in connection with the termination of employment with the Company, shall mean the termination of the Employee's employment by the Company by reason of (i) Employee's material breach of any of this Agreement which breach, if curable, is not cured within thirty (30) days of written notice to Employee of such breach; (ii) the conviction of, or the entering of a guilty plea or no contest plea by, the Employee for a crime involving moral turpitude by a court of competent jurisdiction; (iii) the commission by the Employee of an act of fraud upon the Company or any of its affiliates; (iv) the misappropriation of any funds or property of the Company or any of its affiliates by the Employee; (v) the failure by the Employee to perform material duties reasonably assigned to him or otherwise assigned to and accepted by Employee, or to comply with any written Company policy after reasonable written notice and opportunity to cure such performance; (vi) the engagement by the Employee in any direct, material conflict of interest with the Company without compliance with the Company's conflict of interest policy, if any, then in effect; or (vii) the engagement in any activity which would constitute a material violation of the provisions of the Company's insider trading policy, if any, then in effect. Cause shall not be present unless (1) the Company shall have given Employee written notice specifying in reasonable detail the event or circumstances constituting Cause, and (2) Employee fails to cure such event or circumstances within forty-five (45) days from the date of such notice from the Company. "Good Reason" when used in connection with the resignation of employment from the Company by Employee, shall mean the resignation from the Company by Employee by reason of: (i) any deliberate breach by the Company with any of

the material provisions of this Agreement, other than an isolated, insubstantial or inadvertent failure which is remedied by Company promptly after Company's receipt of written notice thereof from Employee; (ii) a material diminution in Executive's authorities, duties or responsibilities normally associated with Employee's position or Employee is assigned duties and responsibilities that are inconsistent, in a material respect, with the scope of duties and responsibilities associated with Employee's status as a senior executive officer; (iii) the Company's failure to nominate the Employee for election to the Board of Directors and to use its best efforts to have him elected and re-elected, as applicable or (iii) a material breach by the Company of the Company's Articles of

-2-

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Incorporation or By-laws if such breach would materially prejudice Employee. Good Reason shall not be present unless (1) Employee shall have given the Company written notice specifying in reasonable detail the event or circumstances constituting Good Reason, and (2) the Company fails to cure such event or circumstances within forty-five (45) days from the date of such notice from Employee.

6. **Severance Benefits.**

6.1 **Continuation of Salary and Benefits.** In the event that the Employee's employment is terminated by the Employee for Good Reason prior to the end of the initial term, the Company shall, subject to the terms of Sections 6.2 and 6.3 below, and only if and as long as Employee is not in breach of his obligations under this Agreement, pay compensation to Employee in the manner set forth below. If the Employee's employment is terminated by the Employee for Good Reason during the term of this Agreement, then the Company shall continue to pay to Employee his current base salary provided for under this Agreement in periodic payments in accordance with its customary payroll practices for a period of until the second (2<sup>nd</sup>) anniversary date of this Agreement (the "Severance Payment Period"). If the Employee's employment is terminated by the Employee for Good Reason, the Company shall also continue to provide benefits in the kind and amounts provided to its employees generally throughout the Severance Payment Period, including continuation of any Company-paid benefits provided pursuant hereto, for the Employee and, if applicable, the Employee's spouse and minor children, provided such benefits will be subject to immediate termination to the extent Employee receives benefits under another similar benefit plan. Employee agrees that the above payments shall be a full settlement of the Company's obligations to Employee hereunder in the event of a termination for Good Reason.

6.2 **Disability; Death.** If at any time during the term of this Agreement, Employee is unable, due to physical or mental disability, to perform effectively his duties hereunder, the Company shall continue payment of compensation as provided in Section 9.1 during the first six (6) months of such disability to the extent not covered by the Company's disability insurance policies. Upon the expiration of such six-month period, the Company, at its sole option, may continue payment of Employee's salary for such additional periods as the Company elects, or may terminate this Agreement without any further obligations hereunder. If Employee should die during the term of this Agreement, Employee's employment and the Company's obligations hereunder shall terminate as of the end of the month in which Employee's death occurs and there will be no salary and benefit continuation period. Employee shall be deemed to have incurred a disability if Employee suffers a physical or mental condition which (i) satisfies the definition of "total disability" in the Company's disability insurance policies, or (ii) if no such policy or plan is then covering Employee, in the reasonable judgment of the Board of Directors, prevents Employee from engaging in any substantial gainful employment with the Company for a period of more than six (6) months.

6.3 **Standstill Agreement; Lock-up Letters.** So long as Employee is employed by the Company or receives severance compensation as provided in Section 6.1 above, Employee agrees that he will sign any reasonable securities lock-up letters, standstill agreements, or other similar documentation required by an underwriter in connection with a public offering of securities by the Company or its parent corporation or take other actions reasonably related thereto as requested by the Board of Directors under similar terms and conditions as for other management employees of the Company generally. Failure to take

-3-

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any such action shall be a "Cause" for termination and shall cause Employee to forfeit any further rights to compensation or other payments hereunder. In addition, Employee agrees that in such event the Company can seek and obtain specific performance of such covenant, including any injunction requiring execution thereof, and the Employee hereby appoints the then current president of the Company to sign any such documents on his behalf so long as such documents are prepared on the same basis as for other management shareholders generally.

6.4 **Relocation or Material Changes in Duties.** If Employee's employment is terminated because of Employee' refusal to relocate to another office of the Company that is more than twenty (20) statute miles from the Employee's then current office, or to accept a material change in duties, such termination shall be deemed a termination with Cause.

7. **Confidential Information: Nondisclosure Covenant.**

7.1. **Confidential Information.** As used herein the term "Confidential Information" shall mean all customer and contract lists, records, financial data, trade secrets, business and marketing plans and studies, suppliers, investors, financing sources, manuals for employee and personnel policies, manufacturing and/or production manuals, computer programs and software, strategic plans, formulas, manufacturing and production processes and techniques (including without limitation types of machinery and equipment used together with improvements and modifications thereon), tools, applications for patents, designs, models, patterns, drawings, tracings, sketches, blueprints, and all other similar information developed and/or used by Company in the course of its business and which is not known by or readily

available to the general public.

7.2 **Nondisclosure Covenant.** Employee acknowledges that, in the course of performing services for and on behalf of Company, Employee has had and will continue to have access to Confidential Information. Employee hereby covenants and agrees to maintain in strictest confidence all Confidential Information in trust for Company, its successors and assigns, and to disclose such information only on a "need-to-know" basis in furtherance and for the benefit of the Company's business. During the period of Employee's employment with Company and at any and all times following Employee's termination of employment for any reason, including without limitation Employee's voluntary resignation with or without Good Reason or involuntary termination with Cause, Employee agrees to not misappropriate, utilize for any purpose other than for the direct benefit of the Company, or disclose or make available to anyone outside Company's organization, any Confidential Information or anything relating thereof without the prior written consent of Company, which consent may be withheld by Company for any reason or no reason at all.

7.3 **Return of Property.** Upon Employee's termination of his employment with Company for any reason, including without limitation Employee's voluntary resignation with or without Good Reason or involuntary termination by the Company with Cause, Employee hereby agrees to immediately return to Company's possession all copies of any writings, computer discs or equipment, drawings or any other information relating to Confidential Information which are in Employee's possession or control. Employee further agrees that, upon the request of Company at any time during Employee's period of employment

-4-

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with Company, Employee shall promptly return to Company all such copies of writings, computer discs or equipment, drawings or any other information relating to Confidential Information which are in Employee's possession or control.

7.4 **Rights to Inventions and Trade Secrets.** Employee hereby assigns to Company all right, title and interest in and to any ideas, inventions, original works or authorship, developments, improvements or trade secrets which Employee solely or jointly has conceived or reduced to practice, or will conceive or reduce to practice, or cause to be conceived or reduced to practice during his employment with Company. All original works of authorship which are made by Employee (solely or jointly with others) within the scope of Employee's services hereunder and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

8 **Noninterference and Nonsolicitation Covenants.** In further reflection of the Company's important interests in its proprietary information and its trade, customer, vendor and employee relationships, Employee agrees that, during the thirty-six (36) month period following the termination of Employee's employment with Company for any reason, including without limitation Employee's voluntary resignation with or without Good Reason or involuntary termination by the Company with Cause, Employee will not directly or indirectly, for or on behalf of any person, firm, corporation or other entity, (a) interfere with any contractual or other business relationships that Company has with any of its customers, clients, service providers or materials suppliers as of the date of Employee's termination of employment, or (b) solicit or induce any employee of Company to terminate his/her employment relationship with Company.

9. **Compensation.** During the term of this Agreement, the Company shall pay the following compensation to Employee:

9.1 **Base Salary.** The Company shall pay Employee an annual rate of base salary of One Hundred Seventy Five Thousand Dollars (\$175,000.00) in periodic installments in accordance with the Company's customary payroll practices, but no less frequently than monthly. Employee's base salary shall be reviewed at least annually by the Board of Directors and the Board of Directors may, but shall not be required to, increase the base salary during the term. Employee's annual base salary, as in effect from time to time, is hereinafter referred to as "Base Salary."

9.2 **Annual Bonus.** Any compensation bonuses to be paid to Employee will be mutually determined by the Company and CloudCommerce.

9.3 **Equity Awards.** During the term, Employee shall be eligible to participate in any Company incentive compensation plan, as determined by the Board of Directions, in its discretion.

9.4 **Benefits.** So long as Employee is employed by the Company, the Employee shall participate in any employee benefit plans sponsored by the Company generally for its employees serving in similar employment capacities as the Employee as determined from time to time by the Board of Directors or any compensation committee of the Board of Directors, if any, and on terms at least as favorable to Employee as are generally offered to other employees of the Company serving in a similar capacity.

-5-

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10 **Office and Staff.** In order to enable Employee to perform his obligations and duties pursuant to this Agreement, the Company agrees that it shall provide suitable office space for Employee in Denver, Colorado, or in another location mutually agreed upon, together with all necessary and appropriate supporting staff and secretarial assistance, equipment, stationery, books and supplies. Employee agrees that the office space and supporting staff presently in place is suitable for the purposes of this Agreement. The Company agrees to provide at its expense parking for one (1) vehicle by the Employee at the Company's executive offices.

11. **Reimbursement of Expenses.** The Company shall reimburse Employee for the reasonable (and pre-approved by the Company in writing) travel and other expenses incurred by Employee in connection with the performance of Employee's duties under this Agreement. Employee's pre-approved reimbursable expenses shall be paid by the Company in cash or check within a reasonable time after presentment by Employee of an itemized list of invoices sufficiently describing such expenses. All compensation provided in Sections 8 of this Agreement shall be subject to customary withholding tax and other employment taxes, to the extent required by law. Expense reimbursements will not be subject to withholding.

12. **Rights In And To Inventions And Patents.**

12.1 **Description of Parties' Rights.** The Employee agrees that with respect to any inventions made by him or the Company during the term of this Agreement, solely or jointly with others, (i) which are made with the Company's equipment, supplies, facilities, trade secrets or time, or (ii) which relate to the business of the Company or the Company's actual or demonstrably anticipated research or development, or (iii) which result from any work performed by the Employee for the Company, such inventions shall belong to the Company. The Employee also agrees that the Company shall have the right to keep such inventions as trade secrets, if the Company chooses.

12.2 **Disclosure Requirements.** For purposes of this Agreement, an invention is deemed to have been made during the term of this Agreement if, during such period, the invention was conceived or first actually reduced to practice. In order to permit the Company to claim rights to which it may be entitled, the Employee agrees to disclose to the Company in confidence the nature of all patent applications filed by the Employee during the term of this Agreement.

13. **Assignability of Benefits.** Except to the extent that this provision may be contrary to law, no assignment, pledge, collateralization or attachment of any of the benefits under this Agreement shall be valid or recognized by the Company. Except as provided by law, payment provided for by this Agreement shall not be subject to seizure for payment of any debts or judgments against the Employee, nor shall the Employee have any right to transfer, modify, anticipate or encumber any rights or benefits hereunder.

14. **Notice.** All notices and other communications required or permitted hereunder shall be in writing or in the form of email, facsimile or letter to be given only during the recipient's normal business hours unless arrangements have otherwise been made to receive such notice outside of normal business hours, and can be mailed by registered or certified mail, postage prepaid, or otherwise delivered by hand, messenger, email or facsimile (as provided above) addressed (a)

-6-

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if to the Employee, at the address for such Employee set forth on the signature page hereto or at such other address as such Employee shall have furnished to the Company in writing or (b) if to the Company, to its principal executive offices and addressed to the attention of the Chairman of the Board, or at such other address as the Company shall have furnished in writing to the Employee.

**In case of the Company:**

Indaba Group, Inc.  
C/O CloudCommerce, Inc.  
1933 Cliff Dr. Suite 11  
Santa Barbara, CA 93109  
Attention: Andrew Van Noy, CEO  
Telephone: 805-964-3313  
Facsimile: 805-964-6968

**In case of the Employee:**

The address listed below  
signature to this Agreement.

15. **Attorneys' Fees.** In the event that any of the parties must resort to legal action in order to enforce the provisions of this Agreement or to defend such suit, the prevailing party shall be entitled to receive reimbursement from the nonprevailing party for all reasonable attorneys' fees and all other costs incurred in commencing or defending such suit.

16. **Entire Agreement.** This Agreement and the Merger Agreement embody the entire understanding among the parties and merge all prior discussions or communications among them, and no party shall be bound by any definitions, conditions, warranties, or representations other than as expressly stated in this Agreement and the Merger Agreement or as subsequently set forth in a writing signed by the duly authorized representatives of all of the parties to this Agreement.

17. **No Oral Change; Amendment.** This Agreement may only be changed or modified and any provision hereof may only be waived in writing signed by the party against whom enforcement of any waiver, change or modification is sought. This Agreement may be amended only in writing by mutual consent of the parties.

18. **Severability.** In the event that any provision of this Agreement shall be void or unenforceable for any reason whatsoever, then such provision shall be stricken and of no force and effect. The remaining provisions of this Agreement shall, however, continue in full force and effect, and to the extent required, shall be modified to preserve their validity.

19. **Applicable Law.** This Agreement shall be construed as a whole and in accordance with its fair meaning. This Agreement shall be interpreted in accordance with the laws of the State of California.

-7-

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20. **Successors and Assigns.** Each covenant and condition of this Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, personal representatives, assigns and successors in interest. Without limiting the generality of the foregoing sentence, this Agreement shall be binding upon any successor to the Company whether by merger, reorganization or otherwise.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first above written.

**COMPANY:**

**INDABA GROUP, INC.**

a Delaware corporation

By: \_\_\_\_\_  
Andrew Van Noy, Chairman of the Board

**EMPLOYEE:**

\_\_\_\_\_  
Ryan Shields

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip Code

Telephone Number: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

-8-

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement") is made as of the October 1, 2015, by and between Indaba Group, Inc., a Delaware corporation (the "Company", which is a wholly owned subsidiary of CloudCommerce, Inc. (formerly Warp 9, Inc.), a Nevada corporation ("CloudCommerce"), and Blake Gindi, an individual ("Employee"), and is made with respect to the following facts:

**RECITALS**

A. The Company and the Employee wish to ensure that the Company will receive the benefit of Employee's loyalty and service during Employee's tenure and that the Employee will be appropriately treated and compensated for services rendered.

B. The parties have entered into this Agreement for the purpose of setting forth the terms of employment of the Employee by the Company.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, **THE PARTIES HERETO AGREE AS FOLLOWS:**

1. **Employment of Employee and Duties.** The Company hereby hires Employee and Employee hereby accepts employment upon the terms and conditions described in this Agreement. The Employee shall be the Chief Technology Officer of the Company, with the responsibility for the day-to-day management of the Company's technical operations. Subject to (a) the general supervision of the Chief Executive Officer ("CEO"), and (b) the Employee's duty to report to the Chief Executive Officer periodically, as specified by him from time-to-time, Employee shall have all of the authority to perform his employment duties for the Company.

2.

3. **Time and Effort. Employee agrees** to devote his full working time and attention to the management of the Company's business affairs, the implementation of its strategic plan, as determined by the CEO, and the fulfillment of his duties and responsibilities as Chief Technology Officer. Expenditure of a reasonable amount of time for personal matters and business and charitable activities shall not be deemed to be a breach of this Agreement, provided that those activities do not materially interfere with the services required to be rendered to the Company under this Agreement.

4. **The Company's Authority.** Employee agrees to comply with the Company's reasonable rules and regulations as adopted by the Company's Board of Directors regarding performance of his duties, and to carry out and perform those orders, directions and policies established by the Company with respect to his engagement. Employee shall promptly notify the Company's CEO of any objection he has to the CEO's directives and the reasons for such objection.

5. **Noncompetition by Employee.** Employee is subject to noncompetition obligations pursuant to Section 3.1 of that certain Agreement and Plan of Merger, dated as of June 26, 2015, by and among Indaba Group, LLC, a Colorado limited liability company, Employee, Blake Gindi, Jack Gindi,

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CloudCommerce, and Warp 9, Inc., a Delaware corporation (the "Merger Agreement"). Upon the expiration of the term of those obligations, and if Employee is then employed by the Company, then thereafter and throughout the remaining term of this Agreement, Employee shall not, directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, stockholder (in a private company), corporate officer, director, or in any other individual or representative capacity, engage or participate in any business that is in direct competition with the business of the Company or its affiliates. Furthermore, any commissions, referral fees or other compensation paid to Employee by other payors during the term of this Agreement will be the property of the Company, and therefore, all such compensation will promptly be remitted by Employee to the Company.

6. **Term of Agreement.** Subject to earlier termination as provided herein, the term of this Agreement shall be for two (2) years. Notwithstanding the foregoing, the Company and Employee agree that Employee's employment hereunder may be terminated by the Employee resigning with "Good Reason" or by the Company's declaration of termination with "Cause" at any time, subject to the terms of this Section 5 and Section 6. Such termination shall be effective upon delivery of written notice from the acting party to the other of its election to terminate employment pursuant to this Section 5. "Cause" when used in connection with the termination of employment with the Company, shall mean the termination of the Employee's employment by the Company by reason of (i) Employee's material breach of any of this Agreement which breach, if curable, is not cured within thirty (30) days of written notice to Employee of such breach; (ii) the conviction of, or the entering of a guilty plea or no contest plea by, the Employee for a crime involving moral turpitude by a court of competent jurisdiction; (iii) the commission by the Employee of an act of fraud upon the Company or any of its affiliates; (iv) the misappropriation of any funds or property of the Company or any of its affiliates by the Employee; (v) the failure by the Employee to perform material duties reasonably assigned to him or otherwise assigned to and accepted by Employee, or to comply with any written Company policy after reasonable written notice and opportunity to cure such performance; (vi) the engagement by the Employee in any direct, material conflict of interest with the Company without compliance with the Company's conflict of interest policy, if any, then in effect; or (vii) the engagement in any activity

which would constitute a material violation of the provisions of the Company's insider trading policy, if any, then in effect. Cause shall not be present unless (1) the Company shall have given Employee written notice specifying in reasonable detail the event or circumstances constituting Cause, and (2) Employee fails to cure such event or circumstances within forty-five (45) days from the date of such notice from the Company. "Good Reason" when used in connection with the resignation of employment from the Company by Employee, shall mean the resignation from the Company by Employee by reason of: (i) any deliberate breach by the Company with any of the material provisions of this Agreement, other than an isolated, insubstantial or inadvertent failure which is remedied by Company promptly after Company's receipt of written notice thereof from Employee; (ii) a material diminution in Executive's authorities, duties or responsibilities normally associated with Employee's position or Employee is assigned duties and responsibilities that are inconsistent, in a material respect, with the scope of duties and responsibilities associated with Employee's status as a senior executive officer; (iii) the Company's failure to nominate the Employee for election to the Board of Directors and to use its best efforts to have him elected and re-elected, as applicable or (iii) a material breach by the Company of the Company's Articles of Incorporation or By-laws if such breach would materially prejudice Employee. Good Reason shall not be present unless (1) Employee shall have given the

-2-

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Company written notice specifying in reasonable detail the event or circumstances constituting Good Reason, and (2) the Company fails to cure such event or circumstances within forty-five (45) days from the date of such notice from Employee.

## 7. **Severance Benefits.**

6.1 **Continuation of Salary and Benefits.** In the event that the Employee's employment is terminated by the Employee for Good Reason prior to the end of the initial term, the Company shall, subject to the terms of Sections 6.2 and 6.3 below, and only if and as long as Employee is not in breach of his obligations under this Agreement, pay compensation to Employee in the manner set forth below. If the Employee's employment is terminated by the Employee for Good Reason during the term of this Agreement, then the Company shall continue to pay to Employee his current base salary provided for under this Agreement in periodic payments in accordance with its customary payroll practices for a period of until the second (2<sup>nd</sup>) anniversary date of this Agreement (the "Severance Payment Period"). If the Employee's employment is terminated by the Employee for Good Reason, the Company shall also continue to provide benefits in the kind and amounts provided to its employees generally throughout the Severance Payment Period, including continuation of any Company-paid benefits provided pursuant hereto, for the Employee and, if applicable, the Employee's spouse and minor children, provided such benefits will be subject to immediate termination to the extent Employee receives benefits under another similar benefit plan. Employee agrees that the above payments shall be a full settlement of the Company's obligations to Employee hereunder in the event of a termination for Good Reason.

6.2 **Disability; Death.** If at any time during the term of this Agreement, Employee is unable, due to physical or mental disability, to perform effectively his duties hereunder, the Company shall continue payment of compensation as provided in Section 9.1 during the first six (6) months of such disability to the extent not covered by the Company's disability insurance policies. Upon the expiration of such six-month period, the Company, at its sole option, may continue payment of Employee's salary for such additional periods as the Company elects, or may terminate this Agreement without any further obligations hereunder. If Employee should die during the term of this Agreement, Employee's employment and the Company's obligations hereunder shall terminate as of the end of the month in which Employee's death occurs and there will be no salary and benefit continuation period. Employee shall be deemed to have incurred a disability if Employee suffers a physical or mental condition which (i) satisfies the definition of "total disability" in the Company's disability insurance policies, or (ii) if no such policy or plan is then covering Employee, in the reasonable judgment of the Board of Directors, prevents Employee from engaging in any substantial gainful employment with the Company for a period of more than six (6) months.

6.3 **Standstill Agreement; Lock-up Letters.** So long as Employee is employed by the Company or receives severance compensation as provided in Section 6.1 above, Employee agrees that he will sign any reasonable securities lock-up letters, standstill agreements, or other similar documentation required by an underwriter in connection with a public offering of securities by the Company or its parent corporation or take other actions reasonably related thereto as requested by the Board of Directors under similar terms and conditions as for other management employees of the Company generally. Failure to take any such action shall be a "Cause" for termination and shall cause Employee to forfeit any further rights to compensation or other payments hereunder. In addition,

-3-

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Employee agrees that in such event the Company can seek and obtain specific performance of such covenant, including any injunction requiring execution thereof, and the Employee hereby appoints the then current president of the Company to sign any such documents on his behalf so long as such documents are prepared on the same basis as for other management shareholders generally.

6.4 **Relocation or Material Changes in Duties.** If Employee's employment is terminated because of Employee's refusal to relocate to another office of the Company that is more than twenty (20) statute miles from the Employee's then current office, or to accept a material change in duties, such termination shall be deemed a termination with Cause.

## 8. **Confidential Information: Nondisclosure Covenant.**

7.1. **Confidential Information.** As used herein the term "Confidential Information" shall mean all customer and contract lists, records, financial data, trade secrets, business and marketing plans and studies, suppliers, investors, financing sources, manuals for



employee and personnel policies, manufacturing and/or production manuals, computer programs and software, strategic plans, formulas, manufacturing and production processes and techniques (including without limitation types of machinery and equipment used together with improvements and modifications thereon), tools, applications for patents, designs, models, patterns, drawings, tracings, sketches, blueprints, and all other similar information developed and/or used by Company in the course of its business and which is not known by or readily available to the general public.

7.2 **Nondisclosure Covenant.** Employee acknowledges that, in the course of performing services for and on behalf of Company, Employee has had and will continue to have access to Confidential Information. Employee hereby covenants and agrees to maintain in strictest confidence all Confidential Information in trust for Company, its successors and assigns, and to disclose such information only on a "need-to-know" basis in furtherance and for the benefit of the Company's business. During the period of Employee's employment with Company and at any and all times following Employee's termination of employment for any reason, including without limitation Employee's voluntary resignation with or without Good Reason or involuntary termination with Cause, Employee agrees to not misappropriate, utilize for any purpose other than for the direct benefit of the Company, or disclose or make available to anyone outside Company's organization, any Confidential Information or anything relating thereof without the prior written consent of Company, which consent may be withheld by Company for any reason or no reason at all.

7.3 **Return of Property.** Upon Employee's termination of his employment with Company for any reason, including without limitation Employee's voluntary resignation with or without Good Reason or involuntary termination by the Company with Cause, Employee hereby agrees to immediately return to Company's possession all copies of any writings, computer discs or equipment, drawings or any other information relating to Confidential Information which are in Employee's possession or control. Employee further agrees that, upon the request of Company at any time during Employee's period of employment with Company, Employee shall promptly return to Company all such copies of writings, computer discs or equipment, drawings or any other information relating to Confidential Information which are in Employee's possession or control.

-4-

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7.4 **Rights to Inventions and Trade Secrets.** Employee hereby assigns to Company all right, title and interest in and to any ideas, inventions, original works or authorship, developments, improvements or trade secrets which Employee solely or jointly has conceived or reduced to practice, or will conceive or reduce to practice, or cause to be conceived or reduced to practice during his employment with Company. All original works of authorship which are made by Employee (solely or jointly with others) within the scope of Employee's services hereunder and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

9 **Noninterference and Nonsolicitation Covenants.** In further reflection of the Company's important interests in its proprietary information and its trade, customer, vendor and employee relationships, Employee agrees that, during the thirty-six (36) month period following the termination of Employee's employment with Company for any reason, including without limitation Employee's voluntary resignation with or without Good Reason or involuntary termination by the Company with Cause, Employee will not directly or indirectly, for or on behalf of any person, firm, corporation or other entity, (a) interfere with any contractual or other business relationships that Company has with any of its customers, clients, service providers or materials suppliers as of the date of Employee's termination of employment, or (b) solicit or induce any employee of Company to terminate his/her employment relationship with Company.

10. **Compensation.** During the term of this Agreement, the Company shall pay the following compensation to Employee:

9.1 **Base Salary.** The Company shall pay Employee an annual rate of base salary of One Hundred Seventy Five Thousand Dollars (\$175,000.00) in periodic installments in accordance with the Company's customary payroll practices, but no less frequently than monthly. Employee's base salary shall be reviewed at least annually by the Board of Directors and the Board of Directors may, but shall not be required to, increase the base salary during the term. Employee's annual base salary, as in effect from time to time, is hereinafter referred to as "Base Salary."

9.2 **Annual Bonus.** Any compensation bonuses to be paid to Employee will be mutually determined by the Company and CloudCommerce.

9.3 **Equity Awards.** During the term, Employee shall be eligible to participate in any Company incentive compensation plan, as determined by the Board of Directors, in its discretion.

9.4 **Benefits.** So long as Employee is employed by the Company, the Employee shall participate in any employee benefit plans sponsored by the Company generally for its employees serving in similar employment capacities as the Employee as determined from time to time by the Board of Directors or any compensation committee of the Board of Directors, if any, and on terms at least as favorable to Employee as are generally offered to other employees of the Company serving in a similar capacity.

-5-

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11. **Office and Staff.** In order to enable Employee to perform his obligations and duties pursuant to this Agreement, the

Company agrees that it shall provide suitable office space for Employee in Denver, Colorado, or in another location mutually agreed upon, together with all necessary and appropriate supporting staff and secretarial assistance, equipment, stationery, books and supplies. Employee agrees that the office space and supporting staff presently in place is suitable for the purposes of this Agreement. The Company agrees to provide at its expense parking for one (1) vehicle by the Employee at the Company's executive offices.

12. **Reimbursement of Expenses.** The Company shall reimburse Employee for the reasonable (and pre-approved by the Company in writing) travel and other expenses incurred by Employee in connection with the performance of Employee's duties under this Agreement. Employee's pre-approved reimbursable expenses shall be paid by the Company in cash or check within a reasonable time after presentment by Employee of an itemized list of invoices sufficiently describing such expenses. All compensation provided in Sections 8 of this Agreement shall be subject to customary withholding tax and other employment taxes, to the extent required by law. Expense reimbursements will not be subject to withholding.

13. **Rights In And To Inventions And Patents.**

12.1 **Description of Parties' Rights.** The Employee agrees that with respect to any inventions made by him or the Company during the term of this Agreement, solely or jointly with others, (i) which are made with the Company's equipment, supplies, facilities, trade secrets or time, or (ii) which relate to the business of the Company or the Company's actual or demonstrably anticipated research or development, or (iii) which result from any work performed by the Employee for the Company, such inventions shall belong to the Company. The Employee also agrees that the Company shall have the right to keep such inventions as trade secrets, if the Company chooses.

12.2 **Disclosure Requirements.** For purposes of this Agreement, an invention is deemed to have been made during the term of this Agreement if, during such period, the invention was conceived or first actually reduced to practice. In order to permit the Company to claim rights to which it may be entitled, the Employee agrees to disclose to the Company in confidence the nature of all patent applications filed by the Employee during the term of this Agreement.

14. **Assignability of Benefits.** Except to the extent that this provision may be contrary to law, no assignment, pledge, collateralization or attachment of any of the benefits under this Agreement shall be valid or recognized by the Company. Except as provided by law, payment provided for by this Agreement shall not be subject to seizure for payment of any debts or judgments against the Employee, nor shall the Employee have any right to transfer, modify, anticipate or encumber any rights or benefits hereunder.

15. **Notice.** All notices and other communications required or permitted hereunder shall be in writing or in the form of email, facsimile or letter to be given only during the recipient's normal business hours unless arrangements have otherwise been made to receive such notice outside of normal business hours, and can be mailed by registered or certified mail, postage prepaid, or otherwise delivered by hand, messenger, email or facsimile (as provided above) addressed (a) if to the Employee, at the address for such Employee set forth on the signature page hereto or at such other address as such Employee shall have furnished to

-6-

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the Company in writing or (b) if to the Company, to its principal executive offices and addressed to the attention of the Chairman of the Board, or at such other address as the Company shall have furnished in writing to the Employee.

**In case of the Company:**

Indaba Group, Inc.  
C/O CloudCommerce, Inc.  
1933 Cliff Dr. Suite 11  
Santa Barbara, CA 93109  
Attention: Andrew Van Noy, CEO  
Telephone: 805-964-3313  
Facsimile: 805-964-6968

**In case of the Employee:**

The address listed below  
signature to this Agreement.

16. **Attorneys' Fees.** In the event that any of the parties must resort to legal action in order to enforce the provisions of this Agreement or to defend such suit, the prevailing party shall be entitled to receive reimbursement from the nonprevailing party for all reasonable attorneys' fees and all other costs incurred in commencing or defending such suit.

17. **Entire Agreement.** This Agreement and the Merger Agreement embody the entire understanding among the parties and merge all prior discussions or communications among them, and no party shall be bound by any definitions, conditions, warranties, or representations other than as expressly stated in this Agreement and the Merger Agreement or as subsequently set forth in a writing signed by the duly authorized representatives of all of the parties to this Agreement.

18. **No Oral Change; Amendment.** This Agreement may only be changed or modified and any provision hereof may only be waived in writing signed by the party against whom enforcement of any waiver, change or modification is sought. This Agreement may be amended only in writing by mutual consent of the parties.

19. **Severability.** In the event that any provision of this Agreement shall be void or unenforceable for any reason whatsoever, then such provision shall be stricken and of no force and effect. The remaining provisions of this Agreement shall, however, continue in full force and effect, and to the extent required, shall be modified to preserve their validity.

20. **Applicable Law.** This Agreement shall be construed as a whole and in accordance with its fair meaning. This Agreement shall be interpreted in accordance with the laws of the State of California.

-7-

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21. **Successors and Assigns.** Each covenant and condition of this Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, personal representatives, assigns and successors in interest. Without limiting the generality of the foregoing sentence, this Agreement shall be binding upon any successor to the Company whether by merger, reorganization or otherwise.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

**COMPANY:**

**INDABA GROUP, INC.**

a Delaware corporation

By: \_\_\_\_\_

Andrew Van Noy, Chairman of the Board

**EMPLOYEE:**

\_\_\_\_\_

Blake Gindi

\_\_\_\_\_

Street Address

\_\_\_\_\_

City, State and Zip Code

Telephone Number: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

-8-

## CloudCommerce Completes Acquisition of Indaba

### Company acquires profitable e-commerce solutions provider as the first step in building a large global enterprise

Santa Barbara, CA - October 6, 2015 - Cloud Commerce, Inc. (OTCQB: CLWD), formerly known as Warp 9, Inc., a leading provider of cloud-driven e-commerce and mobile commerce solutions, today announced that it has completed the acquisition of Indaba Group, LLC, a profitable e-commerce solutions provider based in Denver, CO.

With the acquisition of Indaba, CloudCommerce has effectively completed the first step of its growth-by-acquisition strategy, which is to acquire and consolidate profitable companies with strong management teams within the high-growth cloud-based e-commerce market. In its quest to build a large global enterprise, the Company plans to aggressively pursue the acquisition of other profitable e-commerce companies that it believes can provide revenue-driving solutions for leading brands and other sellers conducting business online.

The market opportunity is substantial. Total worldwide business-to-consumer (B2C) e-commerce sales were \$1.5 trillion in 2014, and are projected by eMarketer to grow to \$2.4 trillion by 2017. B2C sales in the United States are projected to be almost \$500 billion by 2018. Additionally, business-to-business (B2B) e-commerce sales will grow to \$6.7 trillion by 2020.

"Completing the acquisition of Indaba marks a pivotal moment for our company," said Andrew Van Noy, CEO of CloudCommerce. "This first acquisition establishes the blueprint for how we intend to build our company going forward. The acquisition of Indaba not only adds a profitable operation to CloudCommerce, but also strengthens our management team. Indaba founders Ryan Shields and Blake Gindi have demonstrated the type of leadership we seek in building a global e-commerce solutions brand."

"Today's announcement marks an exciting time for our company," said Ryan Shields, Indaba's CEO. "By joining forces with CloudCommerce, we have a major opportunity to grow our existing e-commerce solutions business and penetrate new markets. CloudCommerce's business and vision align perfectly with ours and we look forward to working together to build a rapidly growing and very successful enterprise."

Indaba focuses on the front-end user interface, development, systems integration and digital marketing of Magento, Oro Commerce, and Enterprise Bigcommerce web solutions. It is one of the most trusted names in delivering successful online commerce solutions to retailers and businesses across the country. As part of this

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transaction, CloudCommerce will consolidate its own e-commerce operation with Indaba to create a single solutions provider division, Indaba Group, Inc., which will be a wholly owned subsidiary of CloudCommerce.

Van Noy concluded, "Given this tremendous market opportunity, we believe our new acquisition strategy will better serve our customers and create significant and lasting value for our shareholders."

### About CloudCommerce

CloudCommerce, Inc. is a global provider of cloud-driven e-commerce and mobile commerce solutions. Through our wholly owned subsidiaries, we provide online merchants and leading brands with complete solutions for successfully conducting business with customers anytime, anywhere and on any device. Whether it is selling products or services online or making business processes available on the cloud, we deliver solutions that maximize user experience with real-time integration to enterprise applications. We focus intently on four main areas to deliver exceptional value to our customers: engaging frontend design, robust backend integration, effective digital marketing and analytics, and complete solutions management. To learn more about CloudCommerce, please visit <http://www.CloudCommerce.com>.

### Safe Harbor Statement

Matters discussed in this press release contain statements that look forward within the meaning of the Private Securities Litigation Reform Act of 1995. When used in this press release, the words "anticipate," "believe," "estimate," "may," "intend," "expect" and similar expressions identify such statements that look forward. Actual results, performance or achievements could differ materially from those contemplated, expressed or implied by the statements that look forward contained herein, and while expected, there is no guarantee that we will attain the aforementioned anticipated developmental milestones. These statements that look forward are based largely on the expectations of the Company and are subject to a number of risks and uncertainties. These include, but are not limited to, risks and uncertainties associated with: the impact of economic, competitive and other factors affecting the Company and its operations, markets, product, and distributor performance, the impact on the national and local economies resulting from terrorist actions, and U.S. actions subsequently; and other factors detailed in reports filed by the Company.

### Corporate Communications:

Zack Bartlett  
Tel: 805-964-3313  
Email: [zack@CloudCommerce.com](mailto:zack@CloudCommerce.com)