

## Zicam Systems Group Limited – Standard Terms and Conditions of Sale

### 1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

#### 1.1 Definitions:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Commencement Date:** has the meaning given in clause 2.3.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 15.10.

**Contract:** the contract between Zicam and the Client for the supply of Goods and/or Services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** will be construed accordingly.

**Client:** the person or firm who purchases the Goods and/or Services from Zicam.

**Deliverables:** the deliverables set out in the Order produced by Zicam for the Client.

**Delivery Location:** the location set out in the Order or such other location as the parties may agree.

**Force Majeure Event:** an event or circumstance beyond a party's reasonable control including (without limitation) acts of God, flood, drought, earthquake or other natural disaster, epidemic or pandemic, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination or sonic boom, any law or any action taken by a government or public authority, collapse of buildings, fire, explosion or accident, any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on the existence of the Force Majeure Event, or companies in the same group as that party), non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on the existence of the Force Majeure Event) and interruption or failure of utility service.

**Goods:** the goods (or any part of them) set out in the Order.

**Goods Specification:** any specification for the Goods that is agreed in writing by the Client and Zicam.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Client's order for the supply of Goods and/or Services, as submitted by the Client by email or as set out in the Client's purchase order form, the Client's written acceptance of Zicam's quotation or overleaf, as the case may be.

**Services:** the services, including any Deliverables, supplied by Zicam to the Client as set out in the Service Specification.

**Service Specification:** the description or specification for the Services agreed in writing between Zicam and the Client.

**Site:** the location where the Services are to be performed.

**Zicam Materials:** has the meaning given in clause 8.1.8.

**Zicam:** Zicam Systems Group Limited registered in England and Wales with company number 03210691.

#### 1.2 Interpretation:

##### 1.2.1 A reference to:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) legislation or a legislative provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that legislation or legislative provision;
- (c) any words following the terms **including** and **include** or any similar expression will be construed as illustrative and will not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (d) to writing or **written** includes email but not fax.

### 2. Basis of Contract

2.1 These Conditions apply in all circumstances when Zicam and the Client are trading with each other in the course of their respective businesses.

2.2 The Order constitutes an offer by the Client to purchase Goods and/or Services in accordance with these Conditions.

2.3 The Order will only be deemed to be accepted when Zicam issues written acceptance of the Order at which point and on which date the Contract will come into existence (**Commencement Date**).

2.4 Any samples, drawings, descriptive matter or advertising issued by Zicam and any descriptions of the Goods or illustrations or descriptions of the Services contained in Zicam's catalogues or brochures or on its website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They will not form part of the Contract nor have any contractual force.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.6 A quotation for the Goods and/or Services given by Zicam will not constitute an offer. All quotations are subject to availability of and cost to Zicam of Goods and/or the provision of Services and may be withdrawn or amended by Zicam at any time.

2.7 All of these Conditions will apply to the supply of both Goods and Services except where application to one or the other is specified.

2.8 The Client waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Client that is inconsistent with these Conditions.

### 3. Inspection

3.1 If on inspection or survey of the Site it becomes apparent to Zicam that there are one or more problems:

3.1.1 which will result in a change to the Goods Specification or the Services Specification;

3.1.2 with the structure of the building into/onto which the Goods are to be installed;

3.1.3 with any dimensions or measurements provided by the Client;

3.1.4 with access to the Site;

3.1.5 relating to technical matters regarding the Goods and/or Services;

3.1.6 resulting (or which may result) in additional works being required before the Services can be carried out or alongside the Services, which result in the requirement to increase the price of the Goods and/or the Services, then Zicam reserves the right to so increase the price of the Goods and/or the Services accordingly. If the Client does not accept such price increase, Zicam may cancel the Client's Order without liability and the Client will pay Zicam fair and reasonable compensation for any work in progress on or in relation to the Goods and/or Services at the time of termination and management time incurred by Zicam in relation to that Order prior to the time of termination including (without limitation) the cost of any survey carried out and the cost of any Goods already purchased or commissioned for manufacture, but such compensation will not include loss of anticipated profits or any consequential loss.

#### Goods

3.2 The Goods are described in the Goods Specification.

3.3 Zicam reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and Zicam will notify the Client in any such event.

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- 3.4 Any advice or recommendations given by Zicam or its employees or agents relating to the suitability of the Goods is supplied in good faith but the Client must satisfy itself that the Goods are suitable for the intended purpose.
4. **Delivery of Goods**
- 4.1 Zicam will deliver the Goods to the Delivery Location at any time after Zicam notifies the Client that the Goods are ready.
- 4.2 Delivery of the Goods will be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Zicam will not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Client's failure to provide Zicam with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4 The Client will not be liable for the price of and Zicam will refund any amount paid in respect of Goods, which Zicam fails to deliver or make available for collection. Subject only to clause 12 but notwithstanding any other provision of these Conditions or the Contract, Zicam's further liability in respect of such failure will be limited to the lesser of the costs and expenses incurred by the Client in obtaining replacement goods of similar description and quality at the cheapest price available and 10% of the price of the Goods in respect of which such failure occurred. However, Zicam will have no liability for any failure to deliver Goods or make the Goods available for collection to the extent that such failure is caused by a Force Majeure Event or any breach or failure by the Client.
- 4.5 If the Client fails to take delivery of the Goods within 3 Business Days of Zicam notifying the Client that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Zicam's failure to comply with its obligations under the Contract in respect of the Goods:
- 4.5.1 delivery of the Goods will be deemed to have been completed at 9.00 am on the third Business Day following the day on which Zicam notified the Client that the Goods were ready; and
- 4.5.2 Zicam will store the Goods until delivery takes place, and charge the Client for all related costs and expenses (including insurance).
- 4.6 If 10 Business Days after the day on which Zicam notified the Client that the Goods were ready for delivery the Client has not taken actual delivery of them, Zicam may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Client for any shortfall below the price of the Goods.
- 4.7 Zicam may deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment will constitute a separate contract. Any delay in delivery or defect in an instalment will not entitle the Client to cancel any other instalment.
5. **Quality of Goods**
- 5.1 The Client acknowledges that Zicam is not the manufacturer of the Goods. Zicam will use all reasonable endeavours to pass on to the Client the benefit of any applicable manufacturer warranty in connection with the Goods.
- 5.2 Zicam warrants that on delivery, the Goods will conform in all material respects with the Goods Specification.
- 5.3 Subject to clause 5.4, if:
- 5.3.1 the Client gives notice in writing to Zicam within 3 days of delivery (and within 24 hours of delivery or, as the case may be collection, if the alleged defect is apparent on visual inspection) that some or all of the Goods do not comply with the warranty set out in clause 5.2;
- 5.3.2 Zicam is given a reasonable opportunity of examining such Goods; and
- 5.3.3 the Client (if asked to do so by Zicam) returns such Goods to Zicam's place of business at the Client's cost, Zicam will, at its option, repair or replace any Goods it agrees are defective, or refund the price of any such defective Goods in full.
- 5.4 Zicam will not be liable for the Goods' failure to comply with the warranty set out in clause 5.2 if:
- 5.4.1 the Goods are moved away from the location where they were originally installed by Zicam;
- 5.4.2 the Client makes any further use of such Goods after giving a notice in accordance with clause 5.3;
- 5.4.3 the defect arises because the Client failed to follow Zicam's or the manufacturer's oral or written instructions as to the storage, commissioning, use or maintenance of the Goods or (if there are none) good trade practice regarding the same;
- 5.4.4 the Client alters or repairs such Goods without the written consent of Zicam;
- 5.4.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
- 5.4.6 the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.5 Except as provided in this clause 5, Zicam will have no liability to the Client in respect of the Goods' failure to comply with the warranty set out in clause 5.2.
- 5.6 These Conditions will apply to any repaired or replacement Goods supplied by Zicam.
6. **Title and Risk**
- 6.1 The risk in the Goods will pass to the Client on completion of delivery.
- 6.2 Title to the Goods will not pass to the Client until the earlier of Zicam receiving payment in full (in cash or cleared funds) for the Goods and any other goods that Zicam has supplied to the Client in respect of which payment has become due, in which case title to the Goods will pass at the time of payment of all such sums.
- 6.3 Until title to the Goods has passed to the Client, the Client will:
- 6.3.1 store the Goods separately from all other goods held by the Client so that they remain readily identifiable as Zicam's property;
- 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Zicam's behalf from the date of delivery;
- 6.3.4 notify Zicam immediately if it becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.4; and
- 6.3.5 give Zicam such information as Zicam may reasonably require from time to time relating to:
- (a) the Goods; and
- (b) the ongoing financial position of the Client.
- 6.4 Subject to clause 6.5, the Client may use the Goods in the ordinary course of its business (but not otherwise) before Zicam receives payment for the Goods.
- 6.5 At any time before title to the Goods passes to the Client, Zicam may:
- 6.5.1 by notice in writing, terminate the Client's right to use the Goods in the ordinary course of its business; and
- 6.5.2 require the Client to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Client fails to do so promptly, enter any premises of the Client or of any third party where the Goods are stored in order to recover them.
7. **Supply of Services**
- 7.1 Zicam will supply the Services to the Client in accordance with the Service Specification in all material respects.
- 7.2 Zicam will use all reasonable endeavours to meet any performance dates for the Services specified in the Service Specification or otherwise in writing, but any such dates will be estimates only and time will not be of the essence for the performance of the Services.
- 7.3 Zicam reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and Zicam will notify the Client in any such event.
- 7.4 Zicam warrants to the Client that the Services will be provided using reasonable care and skill.
- 7.5 If the Client wishes to change a pre-agreed date for the supply of the Services then it must give Zicam 72 hours' notice. The Client will pay Zicam's costs in connection with such a request.

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### 8. Client's Obligations

- 8.1 The Client will:
- 8.1.1 ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;
  - 8.1.2 co-operate with Zicam in all matters relating to the Services;
  - 8.1.3 provide Zicam, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required by Zicam to provide the Services;
  - 8.1.4 provide Zicam with such information and materials as Zicam may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
  - 8.1.5 prepare the Client's premises for the supply of the Services;
  - 8.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
  - 8.1.7 comply with all applicable laws, including health and safety laws;
  - 8.1.8 keep all materials, equipment, documents and other property of Zicam (Zicam Materials) at the Client's premises in safe custody at its own risk, maintain Zicam Materials in good condition until returned to Zicam, and not dispose of or use Zicam Materials other than in accordance with Zicam's written instructions or authorisation; and
  - 8.1.9 comply with any additional obligations as set out in the Service Specification and the Goods Specification.
  - 8.1.10 By agreeing to this maintenance agreement and the terms; you are authorising Zicam Systems Group Limited to use remote access to your security system to perform corrective actions and remote maintenance works.

### 9. Delays

- 9.1 If Zicam's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):
- 9.1.1 without limiting or affecting any other right or remedy available to it, Zicam will have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays Zicam's performance of any of its obligations;
  - 9.1.2 Zicam will not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Zicam's failure or delay to perform any of its obligations; and
  - 9.1.3 the Client will reimburse Zicam on written demand for any costs or losses sustained or incurred by Zicam arising directly or indirectly from the Client Default.

### 10. Charges and Payment

- 10.1 The price for Goods will be:
- 10.1.1 the price set out in Zicam's written acceptance of the Order given pursuant to clause 2.3; and
  - 10.1.2 exclusive of all costs and charges of packaging, insurance, transport of the Goods, which will be invoiced to the Client.
- 10.2 The charges for Services will be the price set out in Zicam's written acceptance of the Order given pursuant to clause 2.3 but if not set out there, the charges will be calculated on a time and materials basis as follows:
- 10.2.1 the charges will be calculated in accordance with Zicam's daily fee rates;
  - 10.2.2 Zicam's daily fee rates for each individual person are calculated on the basis of an eight-hour day from 9:00 – 17:00 worked on Business Days;
  - 10.2.3 Zicam will be entitled to charge an overtime rate of 50% of the daily fee rate on a pro rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 10.2.2; and
  - 10.2.4 Zicam will be entitled to charge the Client for any expenses reasonably incurred by the individuals whom Zicam engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Zicam for the performance of the Services, and for the cost of any materials.
- 10.3 Zicam reserves the right to increase the price of the Goods and/or Services, by giving notice to the Client at any time before delivery/performance, to reflect any increase in the cost of the Goods to Zicam that is due to:
- 10.3.1 any factor beyond the control of Zicam (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour and materials);
  - 10.3.2 any request by the Client to change the delivery/performance date(s), quantities or types of Goods/Services ordered, or the Goods Specification or Services Specification; or
  - 10.3.3 any delay caused by any instructions of the Client in respect of the Goods or Services or failure of the Client to give Zicam adequate or accurate information or instructions in respect of the Goods or Services.
- 10.4 In respect of Goods, Zicam will invoice the Client on or at any time after completion of delivery.
- 10.5 In respect of Services, unless otherwise agreed in writing, Zicam will invoice the Client on completion of the Services.
- 10.6 The Client will pay each invoice submitted by Zicam:
- 10.6.1 unless otherwise agreed in writing between the Client and Zicam's Finance Director, within 30 days of the end of the month in which the invoice is dated or in accordance with any credit terms agreed by Zicam and confirmed in writing to the Client; and
  - 10.6.2 in full and in cleared funds to a bank account nominated in writing by Zicam, and time for payment will be of the essence of the Contract.
- 10.7 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Zicam to the Client, the Client will, on receipt of a valid VAT invoice from Zicam, pay to Zicam such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 10.8 All amounts due under the Contract will be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 10.9 This contract is divisible. Each delivery made hereunder shall be deemed to arise from a separate contract and shall be invoiced separately; any invoice for a delivery shall be payable in full in accordance with the terms of payment provided for herein, without reference to and notwithstanding any defect of default in delivery of any other instalment
- ### 11. Data Protection
- 11.1 The following definitions apply in this clause 11:
- 11.1.1 **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
  - 11.1.2 **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
  - 11.1.3 **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.
- 11.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 11.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the Controller and Zicam is the Processor.

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- 11.4 The details of data processing are as follows:
- 11.4.1 Scope, nature and purpose of processing by Zicam: Zicam will process personal data only to the extent required to fulfil its obligations under the Contract;
- 11.4.2 Duration of the processing: the term of the Contract;
- 11.4.3 Types of Personal Data: names, business email addresses, business telephone numbers and CCTV images/footage; and
- 11.4.4 Categories of Data Subject: the employees and other personnel of the Client and, where Zicam has access to the Client's CCTV cameras and/or footage, any other individuals who attend areas of the Client's premises which are covered by CCTV cameras.
- 11.5 Without prejudice to the generality of clause 11.2, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Zicam and/or lawful collection of the Personal Data by Zicam on behalf of the Client for the duration and purposes of the Contract.
- 11.6 Without prejudice to the generality of clause 11.2, Zicam will, in relation to any Personal Data processed in connection with the performance by Zicam of its obligations under the Contract:
- 11.6.1 process that Personal Data only on the documented written instructions of the Client unless Zicam is required by Domestic Law to otherwise process that Personal Data. Where Zicam is relying on Domestic Law as the basis for processing Personal Data, Zicam will notify the Client of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits Zicam from so notifying the Client;
- 11.6.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- 11.6.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 11.6.4 not transfer any Personal Data outside of the UK unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:
- (a) the Client or Zicam has provided appropriate safeguards in relation to the transfer;
- (b) the Data Subject has enforceable rights and effective legal remedies;
- (c) Zicam complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (d) Zicam complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- 11.6.5 assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 11.6.6 notify the Client without undue delay on becoming aware of a Personal Data Breach;
- 11.6.7 at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the Contract unless required by Domestic Law to store the Personal Data; and
- 11.6.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 11.
- 11.7 The Client consents to Zicam appointing third-party processors of Personal Data under the Contract. Zicam confirms that it has entered or (as the case may be) will enter with third-party processors into a written agreement incorporating terms which are substantially similar to those set out in this clause 11. As between the Client and Zicam, Zicam will remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.7. Zicam will inform the Client of any intended changes concerning the addition or replacement of the processors, thereby giving the Client the opportunity to object to such changes provided that if the Client objects to the changes and cannot demonstrate, to Zicam's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the Client will indemnify Zicam for any losses, damages, costs (including legal fees) and expenses suffered by Zicam in accommodating the objection.
12. **Limitation of Liability**
- 12.1 The restrictions on liability in this clause 12 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 12.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.
- 12.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 12.3.1 death or personal injury caused by negligence;
- 12.3.2 fraud or fraudulent misrepresentation;
- 12.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
- 12.3.4 defective products under the Consumer Protection Act 1987.
- 12.4 Subject to clause 12.2 and 12.3, Zicam's total liability to the Client will not exceed the price of the Goods and/or Services ordered.
- 12.5 Subject to clauses 12.2 and 12.3, the following types of loss are wholly excluded by Zicam:
- 12.5.1 loss of profits;
- 12.5.2 loss of sales or business;
- 12.5.3 loss of agreements or contracts;
- 12.5.4 loss of anticipated savings;
- 12.5.5 loss of use or corruption of software, data or information;
- 12.5.6 loss of or damage to goodwill; and
- 12.5.7 indirect or consequential loss.
- 12.6 Zicam has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5 and clause 7. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.7 This clause 12 will survive termination of the Contract.
13. **Termination**
- 13.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 13.1.1 the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 28 days after receipt of notice in writing to do so;
- 13.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

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- 13.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 13.1.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 13.2 Without affecting any other right or remedy available to it, Zicam may terminate the Contract with immediate effect by giving written notice to the Client if:
- 13.2.1 the Client fails to pay any amount due under the Contract on the due date for payment; or
- 13.2.2 there is a change of Control of the Client.
- 13.3 Without affecting any other right or remedy available to it, Zicam may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Client and Zicam if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.4, or Zicam reasonably believes that the Client is about to become subject to any of them.
14. **Consequences of Termination**
- 14.1 On termination of the Contract:
- 14.1.1 the Client will immediately pay to Zicam all of Zicam's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, Zicam will submit an invoice, which will be payable by the Client immediately on receipt;
- 14.1.2 the Client will return all of Zicam Materials and any Deliverables or Goods which have not been fully paid for. If the Client fails to do so, then Zicam may enter the Client's premises and take possession of them. Until they have been returned, the Client will be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 14.2 Termination or expiry of the Contract will not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 14.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry will continue in full force and effect.
15. **General**
- 15.1 **Force Majeure.** Zicam will not be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**). In such circumstances Zicam will be entitled to a reasonable extension of the time for performing such obligations.
- 15.2 **Confidentiality.** Each party undertakes that it will not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by this clause 15.2. Each party may disclose the other party's confidential information (a) to its employees, officers, representatives, contractors or subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract and (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. Each party will ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 15.2. No party will use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 15.3 **Assignment and other dealings.** Zicam may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract. The Client will not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 15.4 **Notices.** Any formal notice given to a party under or in connection with the Contract will be in writing and will be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case). Any such formal notice will be deemed to have been received, if delivered by hand, at the time the notice is left at the proper address and if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting. This clause 15.4 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. A notice given under the Contract is not valid if sent only by email.
- 15.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it will be deemed deleted, but that will not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 15.5 the parties will negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 15.6 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.
- 15.7 **No partnership or agency.** Nothing in the Contract is intended to, or will be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 15.8 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and will have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it will have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract. Nothing in this clause 15.8 will limit or exclude any liability for fraud.
- 15.9 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 15.10 **Variation.** Except as set out in these Conditions, no variation of the Contract will be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 15.11 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation will be governed by and construed in accordance with the law of England and Wales.
- 15.12 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.