

- 1. Scope.** Pursuant to the written offer (the "**Quote**") to provide certain information technology integration and technology installation services (the "**Services**") which references these Terms of Services for Installation (the "**Terms**"), Zaviya Inc., a Texas corporation doing business as Zaviya Solutions Group and affiliates ("**Zaviya**"), hereby offers to sell to the client named therein ("**Client**") such Services referenced therein.
- 2. Acknowledgment.** CLIENT ACKNOWLEDGES AND AGREES THAT: (A) THE QUOTE AND ANY WRITTEN ORDER TO PURCHASE THE SERVICES (A "PURCHASE ORDER" AND, TOGETHER WITH THE QUOTE, THE "PURCHASE DOCUMENTS") PROVIDED BY CLIENT TO ZAVIYA IN RESPONSE TO SUCH QUOTE IS MADE SUBJECT TO THESE TERMS; (B) THESE TERMS WILL GOVERN THE RELATIONSHIP BETWEEN ZAVIYA AND CLIENT AND PREVAIL NOTWITHSTANDING ANY VARIANCE OR CONFLICT WITH ANY TERMS CONTAINED IN ANY PURCHASE ORDER, STATEMENT OF WORK OR OTHER AGREEMENT OR INSTRUMENT SUBMITTED BY CLIENT TO ZAVIYA; (C) ANY PRE- PRINTED OR OTHER TERMS OR CONDITIONS INCLUDED WITH OR IN ANY OF THE DOCUMENTS REFERENCED IN ITEM (B) WILL HAVE NO EFFECT WHATSOEVER; (D) ZAVIYA RESERVES THE RIGHT TO REJECT OR ACCEPT ANY PURCHASE ORDER SUBMITTED BY CLIENT, IN ITS SOLE DISCRETION; AND (E) ZAVIYA'S ACCEPTANCE OF ANY PURCHASE ORDER IS MADE SUBJECT TO CLIENT'S ACCEPTANCE OF THESE TERMS.
- 3. Scope of Services.** Services provided under these Terms will be (a) limited to installation services in the following Zaviya practice areas: (i) storage, (ii) networking, (iii) backup & archiving, (iv) virtualization, and (v) security, and (b) specifically described in the Quote. Client requests for Services outside the scope of these practice areas and the applicable Purchase Documents may be provided, in Zaviya's sole discretion, in accordance with resource and personnel availability.
- 4. Supported Locations.** On-site provision of Services at Client facilities will be limited to (a) a 20 mile radius measured from any Zaviya office (a "Service Area"), and (b) use of Zaviya personnel who reside in such Service Area (the "Local Personnel"). On-site provision of Services at Client facilities outside any Service Area or by Zaviya personnel other than Local Personnel may be provided, in Zaviya's sole discretion, in accordance with resource and personnel availability.
- 5. Fees.** Fees for Services (the "Fees") will be stated in one or more invoices submitted for payment by Zaviya to Client (each, an "Invoice"). Zaviya will invoice Client for the Fees as specified in the applicable Quote; provided, that if such Quote fails to specify the timing for invoicing, Zaviya will invoice Client for the Fees upon completion of performance of the Services referenced in such Quote.
- 6. Payment Terms.** Client commits to pay 100% of the Fees within 30 days of the date of issuance of an Invoice by Zaviya to Client or as otherwise indicated in the applicable Quote. Zaviya reserves the right to refuse performance of Services to Client if any delinquent Invoices are outstanding. Zaviya also reserves the right to charge Client interest on any delinquent balance. This interest is computed on a daily basis for each day the payment is delinquent at the lesser of (x) 2% per month, or (y) the maximum rate permitted by law. Zaviya further reserves the right to refuse payment terms if, in Zaviya's sole discretion, such terms would create an unreasonable credit risk for Zaviya.
- 7. Scheduling.** Client scheduling requests for performance of Services must be made at least 10 business days in advance of the desired initial performance date and time. Client scheduling requests made less than 10 business days in advance of the desired initial performance date and time may be made, in Zaviya's sole discretion, in accordance with resource and personnel availability. To the extent practicable for the requested Services, Zaviya personnel will utilize remote access tools (e.g., VPN accounts, WebEx, etc.) to perform Services; provided, that Client makes such remote access tools available to Zaviya personnel prior to scheduling such Services
- 8. Standard Order Procedure.** Services may only be ordered by Client by mailed, e-mailed or faxed Purchase Orders referencing the applicable Quote and these Terms and stating the quantity of Services, specific qualifications and applicable price. Purchase Orders will be subject to written acceptance by Zaviya and performance schedules will be established in accordance with personnel availability.
- 9. Change Orders, Cancellation and Rescheduling.** Any and all changes to previously submitted Purchase Orders sought to be made by Client must be provided by mail, e-mail or fax notice from Client and are subject to approval by Zaviya. All changes made to previously scheduled Services less than 10 business days in advance of the desired initial performance date and time are subject to a redeployment charge equal to 30% of the requested change. A request to move the desired initial performance date and time forward or increase quantity of Services to be utilized may be provided, in Zaviya's sole discretion, in accordance with resource and personnel availability. If Client cancels all or any portion of previously scheduled Services less than 10 business days in advance of the desired initial performance date and time, it will be assessed a redeployment charge equal to 30% of the net dollar reduction in Fees attributable to such

canceled Services. If Zaviya is unable to meet the requested performance schedule, it will provide notice to Client as soon as it is reasonably aware of such situation. No amount of Services may be refunded except in the event Client and Zaviya have mutually agreed in writing to an exchange for other Services.

- 10. Travel and Expenses.** Client is responsible for any travel and related costs or expenses incurred by Zaviya personnel in furtherance of the performance of the Services ("Travel and Expenses"). Zaviya will invoice Client for any Travel and Expenses incurred by its personnel as such expenses are incurred and at the actual amount incurred and allowable under Zaviya's travel and expense policies
- 11. Relationship of the Parties.** Zaviya is an independent contractor and is not an agent, servant, employee, legal representative, partner or joint venturer of Client or any of its affiliates. Nothing in these Terms or the Purchase Documents will be deemed to create a joint venture or partnership between the parties or any of Client's affiliates. Zaviya has no authority to represent or bind Client.
- 12. Limited Warranty.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED WITHOUT WARRANTY. ZAVIYA DOES NOT MAKE ANY WARRANTIES, EITHER EXPRESS OR IMPLIED (WHETHER BY STATUTE OR OTHERWISE), INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, REGARDLESS OF ANY KNOWLEDGE OF CLIENT'S SPECIFIC NEEDS. IF IMPLIED WARRANTIES MAY NOT BE DISCLAIMED BY APPLICABLE LAW, THEN ANY SUCH IMPLIED WARRANTIES ARE LIMITED IN DURATION TO 30 DAYS AFTER DELIVERY OF THE SERVICES.
- 13. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANY OTHER PROVISION OF THESE TERMS, EACH PARTY'S MAXIMUM LIABILITY FOR DAMAGES TO THE OTHER PARTY IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES HEREUNDER, WHETHER IN CONTRACT OR IN TORT (INCLUDING, WITHOUT LIMITATION, FOR BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT), WILL NOT EXCEED THE AGGREGATE AMOUNT OF ACTUAL SERVICES PURCHASED BY CLIENT UNDER THE APPLICABLE PURCHASE DOCUMENTS. IN NO EVENT, WHETHER BASED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, OR FOR LOSS OF REVENUE, LOSS OF BUSINESS OR OTHER FINANCIAL LOSS, OR LOST OR CORRUPTED DATA ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES UNDER THESE TERMS.
- 14. Indemnity.** Client agrees to indemnify and hold Zaviya harmless from any claims or damages (inclusive of reasonable attorney's fees), including claims of infringement, made against Zaviya as a result of alleged negligence, misrepresentation, error or omission on the part of Client or its affiliates, directors, officers, employees, agents or representatives.
- 15. Entire Agreement.** These Terms and the Purchase Documents (a) to which these Terms are attached, or (b) which reference these Terms, represent the entire agreement between the parties regarding the subject matter contained in these Terms and the Purchase Documents, and supersedes any and all other agreements between the parties regarding the subject matter hereof. Any changes to the terms and conditions in these Terms and the Purchase Documents must be in set forth in a written agreement signed by an authorized representative of each party.
- 16. Force Majeure.** Zaviya will not be liable to Client for any alleged loss or damages resulting from the performance of the Services being delayed by acts of Client, acts of civil or military authority, governmental priorities, fire, floods, epidemics, quarantine, energy crises, strikes, labor trouble, war, riots, accidents, shortages, delays in transportation, or any other causes beyond the reasonable control of Zaviya (each, a "**Force Majeure Event**"). Zaviya will (a) continue to use commercially reasonable efforts to perform its obligations under these Terms and the Purchase Documents to the extent possible, and (b) notify Client promptly when the Force Majeure Event has abated.
- 17. Assignment.** Assignment of these Terms and/or the Purchase Documents will be prohibited without the express written consent of the other party, except that (a) each party reserves the right to assign these Terms and the Purchase Documents to the successor in a merger or acquisition of such party, and (b) Zaviya reserves the right to subcontract any support or maintenance obligations hereunder. Any other attempted assignment in violation of this provision will be null and void.
- 18. Governing Law; Venue.** These Terms of Sale will be construed in accordance with, and all disputes hereunder will be governed by, the laws of the State of Texas. Both parties agree that any action, suit or proceeding arising out of or relating to these Terms of Sale will be initiated and prosecuted in a state court or United States District Court located in Bexar County, Texas, and the parties irrevocably submit to the jurisdiction of any such court.