



- 1. Scope.** Pursuant to the written offer (the "Quote" or "Estimate") to provide certain information technology integration and technology consulting services (the "Services") which references these Terms of Services for Installation (the "Terms"), ZAVIYA Inc., a Texas corporation doing business as Zaviya Solutions Group ("ZSG"), hereby offers to sell to the client named therein ("Client") such Services referenced therein.
- 2. Acknowledgment.** CLIENT ACKNOWLEDGES AND AGREES THAT: (A) THE SIGNED QUOTE/ESTIMATE AND ANY WRITTEN ORDER TO PURCHASE THE PRODUCTS (A "PURCHASE ORDER" AND TOGETHER WITH THE QUOTE/ESTIMATE, THE "PURCHASE DOCUMENTS") PROVIDED BY CLIENT TO ZSG IN RESPONSE TO SUCH QUOTE/ESTIMATE IS MADE SUBJECT TO THESE TERMS; (B) THESE TERMS OF SALE WILL GOVERN THE RELATIONSHIP BETWEEN ZSG AND CLIENT AND PREVAIL NOTWITHSTANDING ANY VARIANCE OR CONFLICT WITH ANY TERMS OR CONDITIONS CONTAINED IN ANY PURCHASE ORDER, STATEMENT OF WORK OR OTHER AGREEMENT OR INSTRUMENT SUBMITTED BY CLIENT TO ZSG; (C) ANY PREPRINTED OR OTHER TERMS OR CONDITIONS INCLUDED WITH OR IN ANY OF THE DOCUMENTS REFERENCED IN ITEM (B) WILL HAVE NO EFFECT WHATSOEVER; (D) ZSG RESERVES THE RIGHT TO REJECT OR ACCEPT ANY PURCHASE ORDER SUBMITTED BY CLIENT, IN ITS SOLE DISCRETION; AND (E) ZSG'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 the following ZSG practice areas: (i) Cloud, (ii) Enterprise Networking, (iii) Backup & Recovery, (iv) IT Consulting, (v) Modern Workplace and (vi) Security, and (b) specifically described in the Quote/Estimate. Client requests for Services outside the scope of these practice areas and the applicable Purchase Documents may be provided, in ZSG'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 20 mile radius measured from ZSG office (a "Service Area"). On-site provision of Services at Client facilities outside any Service Area or by ZSG personnel other than Local Personnel may be provided, in ZSG'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 ZSG to Client (each, an "Invoice"). ZSG will invoice Client for the Fees as specified in the applicable Quote/Estimate; provided, that if such Quote/Estimate fails to specify the timing for invoicing, ZSG will invoice Client for the Fees upon completion of performance of the Services referenced in such Quote/Estimate.
- 6. Payment Terms.** Client commits to pay all Fees upon issuance of an Invoice by ZSG to Client, or as otherwise specified in the applicable Quote/Estimate, and ZSG reserves the right to refuse performance of Services to Client if any delinquent Invoices are outstanding; ZSG may, at its sole discretion, require advance payment or progress payments for Services as specified in the applicable Quote/Estimate, reserves the right to charge Client interest on any delinquent balance computed daily at the lesser of 5% per month or the maximum rate permitted by law, and further reserves the right to refuse to provide Services on credit or require C.O.D. or cash-in-advance basis if ZSG deems such terms to create an unreasonable credit risk. No payment by Client or receipt by ZSG of an amount lesser than the entire amount of an Invoice will be deemed to be other than on account of the earliest due amount, nor will any endorsement or statement on any check or letter accompanying any check or payment be deemed an accord and satisfaction, as ZSG may accept such check or payment without prejudice to ZSG's right to recover the balance of any amount due or pursue any other remedy provided for in these Terms, and ZSG will have the absolute right in its sole discretion to apply any payment received from Client to any account of Client then not current and due and delinquent. Payment via Visa, Mastercard, American Express, other credit card, virtual card (e.g., American Express BIP), or any card or program similar to any of the foregoing will be accepted only if preapproved by ZSG in writing and will be subject to a convenience/processing fee of at least 4% of the total fees paid via such payment method, which fee shall be added to the invoice..
- 7. Standard Order Procedure.** Services may only be ordered by Client by mailed or e-mailed Purchase Orders referencing the applicable Quote/Estimate and these Terms and stating the quantity of Services, specific qualifications and applicable price. Purchase Orders will be subject to written acceptance by ZSG and performance schedules will be established in accordance with personnel availability.
- 8. 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 ZSG's sole discretion, in accordance with resource and personnel availability. To the extent practicable for the requested Services, ZSG 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 ZSG personnel prior to scheduling such Services.

- 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 or e-mail notice from Client and are subject to approval by ZSG. All changes made to previously scheduled Services less than 10 businesses 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 ZSG'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 ZSG 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 ZSG have mutually agreed in writing to an exchange for other Services.
- 10. Limited Warranty.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED WITHOUT WARRANTY. ZSG 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 10 DAYS AFTER DELIVERY OF THE SERVICES.
- 11. 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 SERVICES PURCHASED BY CLIENT UNDER THE APPLICABLE PURCHASE ORDER 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.
- 12. Client Responsibilities for Data Integrity and Pre-Service Preparation.** (A) **Data Backup:** Client is solely responsible for ensuring that all data, software, and configurations on Client's systems are adequately backed up prior to the commencement of any Services. ZSG shall not be liable for any loss, corruption, or destruction of Client's data, software, or configurations, regardless of the cause. (B) **System Readiness:** Client shall ensure that all systems, networks, and environments where Services are to be performed are ready, accessible, and meet any specifications provided by ZSG in the Quote/Estimate or otherwise. Client's failure to prepare systems adequately may result in delays, additional charges, or the inability to perform Services, for which ZSG shall not be liable. (C) **Client Personnel Availability:** Client shall make available qualified Client personnel as reasonably required by ZSG to facilitate the performance of the Services. Delays caused by the unavailability of Client personnel shall be subject to the provisions of Section 9 regarding rescheduling and potential charges.
- 13. Indemnification.** (A) By Client: Client shall indemnify, defend, and hold harmless ZSG, its affiliates, officers, directors, employees, and agents from and against any and all claims, liabilities, damages, losses, costs, expenses, and fees (including reasonable attorneys' fees) arising out of or relating to: (i) Client's breach of these Terms or any Purchase Documents; (ii) Client's misuse of the Services or any deliverables provided by ZSG; (iii) any third-party claims arising from Client's data, content, or systems; or (iv) Client's gross negligence or willful misconduct in connection with the performance of the Services. (B) By ZSG: ZSG shall indemnify, defend, and hold harmless Client from and against any and all claims, liabilities, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising from a claim that the Services, as provided by ZSG, infringe a third-party's patent, copyright, or trademark, provided that Client promptly notifies ZSG in writing of such claim, provides ZSG sole control of the defense and settlement of such claim, and cooperates with ZSG in such defense. ZSG shall have no obligation under this subsection if the infringement arises from: (i) Client's use of the Services in combination with hardware or software not provided by ZSG; (ii) Client's modification of the Services; (iii) Client's use of the Services in a manner not in accordance with these Terms or the applicable Purchase Documents; or (iv) any intellectual property rights of Client or any third party for which Client is responsible.
- 14. Travel and Expenses.** Client shall reimburse ZSG for all travel and related costs or expenses incurred by ZSG personnel in furtherance of the performance of the Services ("Travel and Expenses"). Such reimbursement shall be based on either (a) actual, itemized expenses incurred by ZSG personnel, or (b) per diem or travel allowances provided to ZSG personnel, in each case as

determined and invoiced by ZSG in accordance with ZSG's established travel and expense policies. ZSG's policies are designed to cover reasonable travel expenses and are administered in compliance with applicable tax laws.

- 15. Relationship of the Parties.** ZSG 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. ZSG has no authority to represent or bind Client.
- 16. Force Majeure.** ZSG 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, pandemic, epidemics, quarantine, energy crises, strikes, labor trouble, war, riots, accidents, shortages, delays in transportation, or any other causes beyond the reasonable control of ZSG (each, a "**Force Majeure Event**"). ZSG 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) ZSG 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 and the Purchase Documents 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 and the Purchase Documents 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.
- 19. Entire Agreement; Amendment.** 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.