

Terms And Conditions

For The Provision Of Zscaler Services

IF YOU PURCHASE ZSCALER SERVICES FROM VIDENS, THESE TERMS AND CONDITIONS WILL GOVERN YOUR PURCHASE AND ONGOING USE OF OUR SERVICES. YOU WILL HAVE ACCEPTED AND SHALL BE BOUND BY THESE TERMS AND CONDITIONS EITHER BY EXECUTING OR SIGNING AN ORDER FORM THAT REFERENCES THESE TERMS AND CONDITIONS OR BY ELECTRONIC “CLICK THROUGH” AS MAY BE REQUIRED FOR USE OF THE ZSCALER SERVICE.

1. DEFINITIONS

“**Contract Term**” means the Contract Term stated on the Order Form during which the Services on the Order Form will be delivered by Videns.

“**Customer**” or “**End User**” means the company or other legal entity for which you are accepting these Terms and Conditions and Affiliates of that company or entity.

“**End User Subscription Agreement**” or “**EUSA**” means the terms of service by and between End User and Zscaler governing the use of the Services by such End User.

“**Force Majeure Event**” means a degradation of the performance of a Party’s obligations under this Agreement due to a cause beyond the reasonable control of such Party, including acts of God, fire, flood, or other catastrophes; acts of government; national emergencies, insurrections, riots, war or acts of war or terrorism.

“**Initial Order Term**” means the Contract Term stated on the first Order Form for the purchase of the Services by End User.

“**Order**” means an order for a Service specified in an Order Form that has been signed by duly authorized Customer personnel and accepted in writing by Videns.

“**Order Form**” means Videns’ order form for the provision of the Services.

“**Purchased Services**” means Services that an End User purchases under a paid subscription, as distinguished from those provided pursuant to a free trial.

“**Seat**” means a subscription for a specific individual user that accesses the Internet in connection with the Services.

“**Service Commencement Date**” means the requested Service Commencement Date stated on the Order Form.

“**Services**” means the services to be provided by Videns to Customer as specified in an Order.

“**Software**” means computer programs in object code, as applicable, provided or to be provided by Videns pursuant to this Agreement, and excluding any proprietary software provided by Customer.

“**Videns**” means Videns IT Services B.V. having its principal place of business at Orteliuslaan 850, 3528 BB Utrecht, The Netherlands.

2. ORDERING OF SERVICES, CHANGES AND RENEWAL

- 2.1 Videns shall make the Purchased Services available to End User

pursuant to these Terms and Conditions and the relevant Order Form during a subscription period.

- 2.2 Customer will issue Orders and Videns will accept Orders for the provision of the Services only in the form of duly signed Order Forms. All executed Orders are non-cancellable and all amounts paid are nonrefundable. Subject to this clause 2., the purchased Seats can be used and moved around between Locations of the End User organization (except to the Middle East, where specific approval from Zscaler should be obtained) as may be required by the End User. Additional bandwidth charges may apply for adding Seats in some countries (including but not limited to Australia, Central and Latin America, Africa, Middle East and Mainland-China).
- 2.3 The Services shall be provided for an initial period as defined under “Contract Term” in the relevant Order Form. The subscription period shall commence on the service activation date. Videns shall send Customer a renewal Order Form at the latest 60 days prior to the end of the Order Term for an additional period equal to the expiring Order Term. The renewal Order Form shall contain the fees for the new subscription period. The renewal shall be deemed to be accepted by Customer, without confirmation, unless Customer gives notice by email of non-renewal at least 30 days before the end of the expiring Order Term.
- 2.4 Purchased Services can be Upgraded at any time up to 6 months before the expiry of the Initial Order Term. “Upgrade” of the Service means the purchase of additional Seats or functionality. Upon End User’s request Videns shall send End User a new Order Form for the additional Seats or functionalities. The Contract Term stated on the new Order Form shall be the remaining time until the expiry date of the Initial Order Term. The new Order Form shall contain the one-time charges for the change, if any, as well as the recurring fees for the new subscription period.
- 2.5 Upgrades within the last 6 months of the Initial Order Term can be accepted only in combination with a renewal Order for all Purchased Services. The minimum Order Term of the renewal Order will be 12 months, counted from the expiry date of the Initial Order Term. Upon execution of the renewal Order, the term of the renewal Order will be used as the Initial Order Term.

3. USE OF THE SERVICES

- 3.1 Each End User must agree to a “click-through” EUSA with Zscaler which is built into the Services and End User’s access and use of the Services is conditioned on End User’s acceptance of the EUSA. The latest version of the EUSA can be downloaded from www.zscaler.com/legal.
- 3.2 Each Seat purchased by may be used only by a single, individual

named user to access and use the Services. A user is defined as a unique individual employee or contractor and is expected to use up to a maximum of three devices. A Seat may only be transferred from one individual to another if the original user is no longer permitted to access, and does not access, the Internet in connection with the Services. In an environment where no user authentication is present, every 2,000 Transactions per day flowing through the Services shall be considered a "Seat" (i.e. the number of Seats used would be calculated by dividing the total number of Transactions flowing through the Services per day by 2,000). In an environment where no user authentication is present for the Guest WiFi Protection or Shift services, every 2,000 DNS Transactions per day flowing through the Services shall be considered a "Seat" (i.e. the number of Seats used would be calculated by dividing the total number of DNS Transactions flowing through the Services per day by 2,000).

4. CHARGES, INVOICES, PAYMENT AND TAXES

- 4.1 **Charges:** The Charges will be as agreed per the Order Forms and are based on Services purchased and not actual usage.
- 4.2 **Currencies:** Charges are quoted and payments are to be effected in the currencies stated on the relevant Order Forms.
- 4.3 **Delivery:** Unless specifically agreed otherwise, the delivery of all goods and any equipment required for or associated with the provision of the Service (if any), will be DAP (Delivered At Place – Incoterms 2010).
- 4.4 **Invoicing:** Videns will commence invoicing of recurring Charges per Service and per Location as of the date of activation of each Service on each Location. If the Service is ready to be provisioned by Videns but cannot be provisioned on the requested Service Commencement Date for reasons due to the Customer, then Videns will commence invoicing 30 days after the requested Service Commencement Date. Videns will invoice all fixed recurring charges monthly in advance, all other recurring charges monthly in arrears. Videns will invoice all charges for one time Services 50% upon acceptance of the Order Form and 50% on completion of the Service.
- 4.5 **Payment:** All invoices are due and payable within 30 days of the date of receipt of the invoice. Payment will be made by wire transfer to the bank account nominated by Videns. Customer shall notify Videns within 30 days of the date of the invoice of any amount which it reasonably disputes. Failing to notify any disputes, Customer will be deemed to have accepted the amounts stated on the invoice. Customer shall have the right to withhold payment only of reasonably disputed amounts. Except in case of breach, payment obligations are non-cancellable and charges paid are non-refundable.
- 4.6 **Taxes:** The amounts listed in the Charges Schedule and on the Order Forms do not include taxes, including VAT, sales, excise duties, gross receipts and withholding taxes, universal service fund fee, and any similar tax or any government imposed fees or surcharges which may be applicable thereto and which will be invoiced to Customer in accordance with local law. Customer agrees to pay or reimburse Videns for all such taxes or fees, excluding tax on Videns income. In respect of withholding tax, Customer will pay such additional amounts as may be necessary, such that Videns receives the amount it would have received had no withholding been imposed. Videns will make reasonable efforts to inform Customer upon Customer's request of the taxes applicable to any Order, provided that Videns' failure to inform Customer will not bar Videns from requiring the payment or reimbursement of any such tax.
- 4.7 **Non-payment:** Failure by Customer to pay any charges in accordance with this Agreement, except for any amount

disputed in accordance with Article 4.5, will entitle Videns to charge interest at the statutory rate of the outstanding balance from the date such payment was due until the date paid. Videns will be entitled to suspend the Service to which the non-payment relates, provided that (i) Videns will have given Customer a 90 days' notice of its intention to do so and (ii) Customer having failed to pay the overdue amounts during that time. The exercise of these remedies is without prejudice to Videns' other rights and remedies under this Agreement.

5. PUBLICITY AND TRADEMARKS

- 5.1 Customer permits Videns to identify Customer as a customer of Videns and to display Customer's logo in connection with identifying Customer as a customer of Videns.
- 5.2 Customer agrees to participate in a joint press release with Videns announcing Customer's use of Videns' Services. The press release shall be subject to the approval of Customer and Videns, which shall not be unreasonably withheld or delayed.
- 5.3 Videns shall not be entitled to publicise the fact that Customer is a customer of Videns for the Services without Customer's prior written consent.

6. INTELLECTUAL PROPERTY RIGHTS

As defined in the EUSA.

7. INDEMNIFICATION

As defined in the EUSA.

8. CONFIDENTIAL INFORMATION.

Customer and Videns agree for the duration of the provisioning of the Service by Videns and for 3 years thereafter to treat any confidential information regarding the Service and any other information provided by one party to the other party that would reasonably be understood to be confidential ("Confidential Information") as strictly confidential, and use such Confidential Information only for the purposes of using or provisioning the Service as permitted hereunder.

9. EXCLUSIONS AND LIMITATIONS OF LIABILITY

- 9.1 Neither Videns nor Customer will be liable, whether for negligence, breach of contract, misrepresentation or otherwise, for any indirect, incidental or consequential loss or damage, howsoever arising, including loss of use or loss of data or lost time, revenue, profits, goodwill, anticipated savings, or any business interruption of any kind, in each case even if advised of the possibility of such loss or damage.
- 9.2 Except for completing any payment obligations, neither Videns nor Customer will be liable for any delay or for the consequences of any delay in fulfilling any of its obligations under this Agreement if such delay is due to a Force Majeure Event.
- 9.3 Except for completing any payment obligations, Videns' and Customer's liability, whether for negligence, breach of contract, misrepresentation or otherwise, for direct loss or damage under this Agreement will be limited, for each event or series of connected events, as follows: (a) for damage or destruction of tangible property, Euro 2,500,000; (c) for all other events, the Charges incurred under this Agreement in the 12 months immediately preceding the cause of action. The foregoing shall not limit the Customer's payment obligations under this Agreement.
- 9.4 Nothing in this Agreement will exclude or restrict any Party's liability for death or personal injury caused by negligence, or fraud or deceit.

10. GOVERNING LAW AND JURISDICTION

These Terms and Conditions and all matters arising from or in connection with the interpretation or enforcement of these Terms and Conditions will be governed exclusively by the laws of

the Netherlands, without regard to its conflicts of laws provisions. Videns and Customer agree to submit to the jurisdiction of the competent court in the Netherlands.

END OF TERMS AND CONDITIONS FOR THE PROVISION OF ZSCALER SERVICES

VIDENS IT SERVICES B.V.
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