



STANDARD TERMS FOR ENTERPRISE CUSTOMERS

1	INTRODUCTION	3
1.1	Agreement	3
1.2	Resellers	3
2	TERMS OF SERVICE & SUPPLY	3
2.1	Terms of Service	3
2.2	Hardware	3
2.3	Subcontractors	3
2.4	Primary Responsibility	3
2.5	Compliance	3
3	TERM & TERMINATION	3
3.1	Term	3
3.2	Termination	4
3.3	Obligations continue	4
3.4	Service Suspension	4
3.5	Effects of Termination	4
3.6	Survival	4
4	COMMERCIAL TERMS	4
4.1	Fees	4
4.2	Invoicing and payment	4
4.3	Costs	5
5	PRIVACY	5
5.1	Your Information	5
5.2	Communications	5
5.3	End User Information	5
5.4	Survival	5
6	DISCLAIMER & INDEMNITY	5
6.1	No Warranty	5
6.2	Limitation of Liability	5
6.3	Third Party Indemnity	5
6.4	Third Party Supplier Indemnity	6
6.5	Bundled Hardware Indemnity	6
6.6	Survival	6
7	INTELLECTUAL PROPERTY	6

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

7.1	Intellectual Property Rights	6
7.2	Family Zone Marks	6
7.3	Your Intellectual Property Rights	6
7.4	Third Party Intellectual Property	6
7.5	Customer Data	6
7.6	Survival	6
8	CONFIDENTIALITY	6
8.1	Confidentiality	6
8.2	Publicity	6
8.3	Survival	7
9	GENERAL	7
10	INTERPRETATION	7
10.1	Terms:	7
10.2	Interpretation	10

1 INTRODUCTION

1.1 Agreement

- (a) This is our standard terms and conditions (“Standard Terms”) for providing Products, Family Zone Services and software and related items to non-consumer customers. Our Standard Terms must be read in conjunction with:
- (i) Your Order;
 - (ii) Our Terms of Service;
 - (iii) Our Privacy Policy; and
 - (iv) Product Descriptions associated with the Products you use;
- all of which together form your agreement with us (this “Agreement”).
- (b) In some instances, we may agree specific additional terms and conditions with you (“Specific Terms”). If not specifically noted in this Agreement, we will provide these to you and those terms and conditions also form part of this Agreement.
- (c) To the extent of any inconsistency our terms apply in this order: Specific Terms, then Your Order, then Terms of Service; then our Standard Terms and then Product Descriptions.

1.2 Resellers

- (a) If you have ordered Products through a Reseller then this Agreement is between you and them and where this agreement refers to us, this should be read as the Reseller.

2 TERMS OF SERVICE & SUPPLY

2.1 Terms of Service

- (a) Subject to your Order and acceptance of it, we will supply you with Products.
- (b) Unless otherwise agreed in writing, you acknowledge and agree that the Products are provided in accordance with our Terms of Service.
- (c) You acknowledge and agree that our Terms of Service:
- (i) include important obligations on us and you;
 - (ii) have been made available to you and you have read and understood them;
 - (iii) confer obligations on you where our Agreement terminates and accordingly survive termination of our Agreement; and
 - (iv) may be subject to Service Changes from time to time at our absolute discretion.
- (d) Where we undertake a Service Changes we undertake to:
- (i) Make such Service Changes effective 30 days after posting notice of the change;
 - (ii) Where a Service Changes is in our sole opinion materially detrimental to you then (a) we will provide you with 30 days’ notice of the Service Changes (b) we will offer you a right to terminate this Agreement without penalty; and (c) to do so you must provide us within written notice within 30 days of receipt of notification of the Service Changes; and
 - (iii) Whilst we will endeavour to, we make no promise to make available prior versions of our Terms of Service on our website.

2.2 Hardware

- (a) We may sell you Hardware or provide you with Hardware for trial, demonstration or for use within our Services (described as “Bundled Hardware”). We retain ownership of Hardware until it is paid for.
- (b) We sell Hardware subject to our TERMS OF SALE OF HARDWARE and supply Bundled Hardware subject to our TERMS OF SUPPLY OF BUNDLED HARDWARE (as set out in our TERMS OF SERVICE & SUPPLY).

2.3 Subcontractors

- (a) You acknowledge that subject to this Agreement we may appoint Subcontractors to fulfil obligations under this Agreement.

2.4 Primary Responsibility

- (a) You acknowledge that you are the registered user of the Products and you are responsible for any use and misuse of them, even if the misuse was committed by an unrelated or related party.

2.5 Compliance

- (a) In connection with this Agreement, you agree that you will:
- (i) not use the Products for any unlawful purpose;
 - (ii) not take any action that may be construed as being an infringement of any Intellectual Property Rights;
 - (iii) not take any action that impacts on another person lawful activities;
 - (iv) observe and comply with the provisions of relevant trade practices, consumer and privacy laws; and
 - (v) observe and comply with the requirements of relevant government or statutory bodies, including applicable industry guidelines or codes of conduct.

3 TERM & TERMINATION

3.1 Term

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

- (a) This Agreement commences on the Date of your first Order with us and continues until the end of the Contracted Term. If no Contracted Term is stated on the Order then this Agreement continues from the Commencement Date on a month to month basis until terminated.
- (b) Following the end of a Contracted Term:
 - (i) This Agreement continues on a month to month basis; and
 - (ii) Either party may terminate this Agreement by 30 days' notice in writing to the other Party.

3.2 Termination

- (a) This Agreement immediately terminates where a Party suffers an Insolvency Event which is not cured within thirty (30) days.
- (b) We may terminate this Agreement in the event of a Force Majeure Event.
- (c) If a Party fails to comply with, or breaches, any material obligation under this Agreement and such Party fails to remedy such breach (if the breach is capable of remedy) or comply with its obligations within 14 Days of the non-defaulting party's notice to the defaulting party detailing the defaulting Party's breach or default as the case may be, then this Agreement automatically terminates on the date which is the earlier of:
 - (i) the date the non-defaulting party gives the notice if the breach or default is not capable of being remedied;
 - (ii) the expiry of the 14 Day notice period if the breach or default is not adequately remedied.

3.3 Obligations continue

- (a) Notwithstanding termination of this Agreement, your obligations under this Agreement will continue in full force and effect until:
 - (i) You have paid for or returned any Bundled Hardware supplied to you in good working order (as determined by us acting reasonably); and
 - (ii) All amounts due to us under this Agreement have been paid in full.

3.4 Service Suspension

- (a) If we, acting reasonably, believe you are in breach of any term of this Agreement, or that our systems may be exposed to potential damage or misuse, or in the event of a Force Majeure Event we may suspend your access. This right does not affect or limit any other rights under this Agreement.
- (b) Notwithstanding anything to the contrary, in the event of a Regulatory Impediment either party shall have the right to suspend performance under this Agreement, to the extent reasonably necessary, in the relevant country or territory.

3.5 Effects of Termination

- (a) Any Fees owing at the date of termination shall be due immediately. Any subsequent charges from us will be due immediately.
- (b) Any Fees that have been paid to us at the date of termination shall be deemed to have been fully utilised – no refunds are applicable;
- (c) Any licences provided to you by us will automatically terminate and we shall cease providing you with Family Zone Services;
- (d) You must immediately cease using the Family Zone Services, Bundled Hardware and Family Zone Marks; and
- (e) You must return or destroy Documentation, items containing Family Zone Marks and any Confidential Information in your possession.

3.6 Survival

- (a) the obligations set out in clauses 3.3 (Obligations Continue) and 3.5 (Effects of Termination) survive termination of this Agreement.

4 COMMERCIAL TERMS

4.1 Fees

- (a) You agree to pay us applicable Fees for the Products we supply to you under your Order.
- (b) Fees will be as set out in your Order. Your Order may include a Contracted Term.
- (c) We may from time to time vary our Fees. These variations will not apply during a Contracted Term. Otherwise we will give you at least 30 days written notice and new Fees.
- (d) If you have ordered Third Party Products through us then unless we have agreed otherwise, we will pass on any price increases. We will use reasonable endeavours to provide you with prior notice.

4.2 Invoicing and payment

- (a) Unless agreed otherwise on your Order:
 - (i) Service related Fees are due from the date the relevant Service is made available to you;
 - (ii) Hardware related Fees are due from the date of delivery of the items to you;
 - (iii) Invoices will be raised in your local currency;
 - (iv) Invoices are due 30 days from invoice date;
 - (v) You have no right of offset against any of our invoices;
 - (vi) We have a right to offset across any account you have with us;
 - (vii) Failure to pay invoices when due constitutes sufficient cause for us to immediately suspend performance;
 - (viii) Invoices not paid by the due date shall bear interest of the rate of 1.5% per month, or of the highest contract rate

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

allowed by law, whichever is less, from its due date until paid;

- (ix) We are entitled to recover from you on a full indemnity basis all costs (including all legal costs) associated with collection of any monies due or otherwise payable by you to us;
- (x) You must make payments to us free of any withholding tax, and of any currency control or other restrictions; and
- (xi) Payment is not deemed to have been made until it has been cleared by our bank.

4.3 **Costs**

- (a) We may pass on any increase in the cost of Service, the installation or provision of the Service where such increase is caused by any:
 - (i) act, omission or delay by you or any variation requested by you after the date of this Agreement; and
 - (ii) material fact not discoverable at the date of this Agreement.

5 **PRIVACY**

5.1 **Your Information**

- (a) For the purposes set out below; you authorise us, and you undertake to procure if requested by us authorisation from your directors (if you are a company) and trustee/s (if you are a trust) for us to collect, retain and use personal Information (the "Information") about you, your directors and trustee/s (as the case maybe).
- (b) The purposes for which we may request the Information are:
 - (i) Checking your credit worthiness;
 - (ii) Seeking or administering finance for Bundled Hardware;
 - (iii) Seeking to enforce our (or any financier's) rights (as applicable) under this Agreement or at law;
 - (iv) Providing information to or requesting Information from, credit agencies;
 - (v) Assignment (or potential assignment) of this Agreement to a Third Party; and
 - (vi) Any other purpose reasonably contemplated by this Agreement.
- (c) You irrevocably acknowledge that:
 - (i) The Information shall be deemed to be held by us for the purposes stated above; and
 - (ii) Where the Information can be readily retrieved you shall have, access to it, the right to request correction and the right to be notified of action taken in response to any such request, subject to payment of any reasonable charge.

5.2 **Communications**

- (a) You consent to receive communications from us for purposes reasonably related to this Agreement. If you subscribe to news services from us, you will receive regular emails from us. We will continue to communicate with you by posting news and notices on our website and by sending you emails.
- (b) You also agree that all notices, disclosures, agreements and other communications we provide to you electronically meet any legal requirement that such communications be in writing.

5.3 **End User Information**

- (a) Each Party undertakes to comply with applicable privacy laws.

5.4 **Survival**

- (a) This clause 5 survives termination or expiry of this Agreement.

6 **DISCLAIMER & INDEMNITY**

6.1 **No Warranty**

- (a) Except as expressly provided otherwise in this Agreement, and to the maximum extent permitted by law, we exclude all express or implied warranties or representations in relation to the Products.
- (b) We have made no representation or statement and give no condition, warranty or guarantee about:
 - (i) the condition, quality, fitness, suitability or safety of the Products;
 - (ii) the dates for delivery of the Products including delivery of Hardware or release of Software.

6.2 **Limitation of Liability**

- (a) To the maximum extent permitted by law, you agree that we have no liability to you or any Third Party (including student or parent or other custodian) for indirect and consequential loss or damage of any kind, loss or corruption of data, loss of revenue, loss of profits, failure to realise expected profits or savings and any other commercial or economic loss of any kind, in contract, tort (including negligence), under any statute, at law, in equity or otherwise arising from or relating in any way to this Agreement.
- (b) To the extent that relevant Legislative Obligations may not be excluded, our liability for breach of such Legislative Obligations and your sole and exclusive remedy in relation to such breaches shall be limited to replacing or repairing the applicable Products.
- (c) We take no responsibility nor accept any liability for the performance of Third Parties in relation to the delivery of Products.

6.3 **Third Party Indemnity**

- (a) You agree to indemnify, keep indemnified and hold us harmless from and against any and all Claims:
 - (i) by a Third Party arising in connection with this Agreement (except to the extent such a Third Party claim arises as a direct result of our breach of this Agreement);

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

- (ii) arising in connection with your breach of this Agreement; or
- (iii) arising in connection with your unlawful conduct.

6.4 **Third Party Supplier Indemnity**

- (a) If you have been supplied Products of a Third Party (through us or directly from that Third Party) then you agree to comply with that Third Party's terms and conditions relating to supply, service or product and you indemnify us against all loss, costs or damage suffered or incurred by us as a result of your failure to comply with such terms and conditions.

6.5 **Bundled Hardware Indemnity**

- (a) Where we supply you with Bundled Hardware you indemnify us against damage, loss or theft ("Loss") of the relevant items and against any increased costs we incur as a result of such Loss for example in supplying other Products ordered by you.

6.6 **Survival**

- (a) This clause 6 survives termination or expiry of this Agreement.

7 **INTELLECTUAL PROPERTY**

7.1 **Intellectual Property Rights**

- (a) All Intellectual Property Rights that are comprised or otherwise, used or embodied in or in connection with Family Zone Products remains our sole property. You agree that you will not make any claim of ownership to or concerning our Intellectual Property Rights, or any development or improvement made to the Products during the course of this Agreement.
- (b) You agree to use reasonable endeavours to ensure no party can access the Products in any way which may facilitate the analysis, copying, reverse engineering of the operating system or copying of any music, video or message files. We reserve the right to claim compensatory or other relief for breach of this term.
- (c) You agree that other than as provided in this Agreement or as otherwise agreed in writing by us, you will not change, add to or modify any Products, related software or configuration.

7.2 **Family Zone Marks**

- (a) Subject to this Agreement we grant you a non-exclusive, non-transferable, royalty-free, limited license to use the Family Zone Marks for the sole purpose of fulfilling obligations under this Agreement.
- (b) You agree and undertake to only use Family Zone Marks in the format provided by us without alteration or adjustment (unless agreed by us in writing);
- (c) You agree to take reasonable steps to ensure no one alters, adjusts or otherwise interferes with any identification marks, labels, logos or notice on the Products;
- (d) Upon termination of this Agreement, the licence provided in this clause 7 will automatically terminate and you must immediately cease all use of the Family Zone Marks and return (to us) or destroy any items containing them.

7.3 **Your Intellectual Property Rights**

- (a) To enable us to provide the Products, we may need to utilise your Intellectual Property Rights including your name, trademarks, logos, copyright, software, documentation, emails, messages, comments & postings and other materials made available by you to Us for agreed purposes ("Your Intellectual Property Rights"). During the term of this Agreement, and in connection with this Agreement only, you grant to us a non-exclusive, non-transferable, royalty-free right to use and reproduce Your Intellectual Property Rights.

7.4 **Third Party Intellectual Property**

- (a) To enable us to provide the Products, you may need to utilise some Third Party Intellectual Property Rights including Third Party names, trademarks, logos, copyrights, software, documentation, and other materials ("Third Party Intellectual Property"). During the term of this Agreement, and in connection with this Agreement only, you agree to obtain written consent of and comply with relevant Third Party's directions with respect to the use of Third Party Intellectual Property.

7.5 **Customer Data**

- (a) Any Customer Data provided to us by you or your End Users or generated by you or your End User's that is Personally Identifiable Information is owned by you however you agree to provide us with an irrevocable, unlimited license in perpetuity to use this data.
- (b) Our use and management of Customer Data is set out in our Privacy Policies which you acknowledge having read, understood and accepted.

7.6 **Survival**

- (a) This clause 7 survives termination or expiry of this Agreement.

8 **CONFIDENTIALITY**

8.1 **Confidentiality**

- (a) In connection with this Agreement only, the Parties agree that A Recipient of Confidential Information:
 - (i) will not disclose Confidential Information to any party other than Associated Parties who need to know it and who have agreed in writing to keep it confidential;
 - (ii) may only use Confidential Information to exercise rights and fulfil obligations under this Agreement, while using reasonable care to protect confidentiality; and
 - (iii) notwithstanding the foregoing, may disclose Confidential Information where required by law after giving reasonable notice to Discloser.

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

8.2 **Publicity**

- (a) Other than where required to disclose information under operation of law, by a court order, or by a governmental agency with jurisdiction, neither party will publish or release any public relations materials or make any public announcement relating to this Agreement or the other party without the other party's prior written consent. Each party agrees to exercise good faith dealing in respect of any such requests.

8.3 **Survival**

- (a) This clause 8 survives termination or expiry of this Agreement.

9 **GENERAL**

- (a) **Further acts:** Each Party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that Party) required by law or reasonably requested by the other Party to give effect to this Agreement.
- (b) **Force majeure:** Neither Party will be liable to the other for any breach of, or failure to perform, any of its obligations under this Agreement where such breach or failure is caused by anything beyond that Party's reasonable control, including (without limitation) war, civil commotion, hostility, act of terrorism, strike, lockout, other industrial act, weather phenomena or other act of God, or governmental regulation or direction.
- (c) **Notices:** Any notice, approval consent or other communication under this Agreement must be in writing, and delivered personally or sent by prepaid registered post or email to a Party at the address set out in the Schedule or updated from time to time, or to such other address as that Party may from time to time notify to the other for the purposes of this clause.
- (d) Proof of posting by prepaid registered post or of dispatch of email will be proof of receipt, in the case of a letter, on the third Business Day after posting and, in the case of email, if the sender does not receive an automated email notifying the sender of non-delivery or delivery error in relation to the sender's email
- (e) **Amendments:** This Agreement may only be varied by a document signed by or on behalf of each of the Parties.
- (f) **Assignment:** You may not assign or transfer all or any of your rights, benefits and obligations under this Agreement without our prior written consent, the granting of which shall be at our sole discretion. Assignment of an Agreement is subject to the creditworthiness of the Assignee and at our discretion. We may at any time assign or otherwise transfer to any party all or any part of our right and obligations under this Agreement and in that event the assignee or transferee should have the same rights against you as it would have had if it had been a party to this Agreement. You acknowledge that we may disclose Confidential Information to (subject to us entering into a confidentiality agreement with) a potential assignee or to any person who may otherwise enter into contractual relations with us in relation to this Agreement.
- (g) **Severability of provisions:** Any provision of this Agreement which is illegal, void or unenforceable will be ineffective to the extent only of that illegality, voidness or unenforceability without invalidating the remaining provisions.
- (h) **Waiver:** Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Agreement by any Party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Agreement. Any waiver or consent given by any Party under this Agreement will only be effective and binding on that Party if it is given or confirmed in writing by that Party. No waiver of a breach of any term of this Agreement will operate as a waiver of another breach of that term or of a breach of any other term of this Agreement.
- (i) **Remedies:** Time shall be of the essence in this Agreement but no failure or delay on the part of us in exercising any right or remedy under this Agreement will operate as a waiver of such right or remedy nor will any single or partial exercise, or the exercise of any other right or remedy. All rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- (j) **Enurement:** The provisions of this Agreement will enure for the benefit of and be binding on the Parties and their respective successors and permitted substitutes and assigns and (where applicable) legal personal representatives.
- (k) **Whole Agreement:** This Agreement, and any other specific terms and conditions provided relating to Service or End User Family Zone Services is the whole Agreement between us, and you have not relied on any other statement document or promise made by a third person introducing you to us, whether before or after this Agreement is executed. You acknowledge that we may pay a commission to that introducing person or business.
- (l) **Counterparts:** This Agreement may be executed in any number of counterparts. All counterparts will be taken to constitute one instrument.
- (m) **Power of Attorney:** You irrevocably appoint us and any authorising officer of ours severally to be your attorney to execute all such documents and to do such things as may be required on your part to give effect to the provisions of this Agreement.
- (n) **Governing law and jurisdiction:** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter is governed by and will be construed according to the laws of Western Australia. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of Western Australia to settle any disputes and claims which may arise out of, or in connection with, this Agreement.
- (o) **Survival:** This clause 9 survives termination or expiry of this Agreement.

10 **INTERPRETATION**

10.1 **Terms:**

In this Agreement and our Terms of Service:

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

- (a) **Abuse** means any damage that is not caused by fair wear and tear and includes, but not limited to, damage caused by liquid, electricity, impact or use outside normal operating conditions.
- (b) **Agreement** means this agreement, schedules and any other terms and conditions incorporated into this Agreement.
- (c) **API's** means application programming interfaces provided by us for the Products as described in our Terms of Service.
- (d) **Associated Parties** means in relation to a party to this Agreement, third party organisations, sales agents, suppliers and customers, distributors, employees and/or device manufacturers or software vendors that service, supply or are delegated to, for the purposes of the relevant party completing its obligations under this Agreement.
- (e) **Bundled Hardware** means Hardware we provide Customers in accordance with our Special Terms: Bundled Hardware (as set out in our Terms of Service & Supply).
- (f) **Business Hours** means 8.30am to 5.00pm (AWST) Monday to Friday, excluding weekends and public holidays.
- (g) **Business Day** means on a day and during the time, that banks are open for business in any state or territory of Australia (excluding Saturday, Sunday and public holidays).
- (h) **Change of Control** means the sale of all, or substantially all, the assets of a party; any merger, consolidation or acquisition of a party with, by or into another corporation, entity or person; or any change in the ownership of more than fifty percent (50%) of the voting capital stock of a party in one or more related transactions.
- (i) **Claim** means any claim, demand or proceeding, whether at law, under statute, in equity or otherwise, for damages, injunctions, debt, restitution or any other remedy and any damage, loss, liability, costs, charge, expense or payment.
- (j) **Commencement Date** means the date of this Agreement as described in clause 3.1;
- (k) **Confidential Information** means information disclosed by one party (**Discloser**) to the other party (**Recipient**) under this Agreement that is marked as confidential or would normally under the circumstances be considered confidential information of the disclosing party. Confidential Information does not include information that the Recipient already knew, that becomes public through no fault of the Recipient, that was independently developed by the Recipient, or that was rightfully given to the Recipient by another party.
- (l) **Consulting** means cyber safety, security and technology consulting services provide by us.
- (m) **Consumer** means a Customer that is an individual person that is not using or intending to use the Products as part of a commercial business or enterprise and is capable at law of entering a contract.
- (n) **Contracted Term** means an agreed minimum time period for this Agreement, as set out in an Order.
- (o) **Components or Parts** means any component part or complete unit of Products or Equipment;
- (p) **Customer, you and your** means the person(s) or legal entity named on the Order. If there is more than one, and/or it means each of you separately and all of you jointly and severally.
- (q) **Customer Data** means any data captured by us from you or your End Users in the operation of the Products and includes without limitation registration information, usage information, information about computing devices and networks and software running on them, geo-location information, system logs, diagnostic data, messages and submitted comments, information, ideas, concepts, reviews, documents and materials.
- (r) **Customer Support** means Product deployment, configuration and help desk services as described in our Terms of Service.
- (s) **Customer Terms** means our Customer Terms and Privacy Policy published from time to time at <https://www.familyzone.com/legal>.
- (t) **Reseller** means a party licensed by Family Zone to promote, supply and Support the Products.
- (u) **Documentation** means any documentation provided by us in relation to the Products and includes without limitation user guides, procedures, training manuals, videos, tutorials, brochures and manuals.
- (v) **End User** means a user of a device connected to a Service we provide to you.
- (w) **Excluded Event** means:
 - (i) a breach of this Agreement by you;
 - (ii) a Force Majeure Event;
 - (iii) any act or omissions of a Third Party which affects the function or performance of the Products;
 - (iv) a negligent, fraudulent or wilful act or omission of you or your personnel; or
 - (v) a failure of any of your or a Customer's equipment.
- (x) **Family Zone, we", our or us** means Family Zone Cyber Safety Limited (ABN 33 167 509 177), its assignees, successors and any subcontractor engaged by, us to provide the Products.
- (y) **Fees** means any fees and charges payable to us by you under this Agreement.
- (z) **Force Majeure Event** means any event that is beyond the reasonable control of a party and which prevents a party from performing, or delays the performance of, any of its obligations under this Agreement including (without limitation):
 - (i) forces of nature, any act of God, fire, storm or explosion;
 - (ii) any strike, lockout, industrial action, war, sabotage, riot, act of terrorism, any denial of service attack, insurrection, civil commotion, national emergency (whether in fact or in law), power shortage, epidemic, quarantine, radiation or radioactive
 - (iii) contamination;
 - (iv) any action or inaction by any organ of government or government agency;
 - (v) a change in any law including any new law; or
 - (vi) a breakdown of plant, machinery or equipment, telecommunications failure or shortages of labour, transportation, fuel, power or plant, machinery, equipment or material (including short supply from the regular source or regular

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

- supplier),
to the extent that the act, event or cause is beyond the reasonable control of the affected party.
- (aa) **Family Zone Marks** means any and all rights in Marks whatsoever owned by Family Zone, whether registered or not.
- (bb) **Hardware** means computing equipment and associated software and accessories and includes and substituted equipment, components and accessories.
- (cc) **Improvements** means any modification or enhancement to the Products, which in Family Zone's sole opinion, in anyway whatsoever improves them.
- (dd) **Infringement** means a Claim, relating to infringement of Intellectual Property Rights.
- (ee) **Insolvency Event** means, in relation to a Party, where that Party is:
- (i) unable to pay its debts as and when they fall due;
 - (ii) or states that it is, insolvent within the meaning of relevant insolvency legislation;
 - (iii) subject to any arrangement, assignment, moratorium or composition, protected from creditors under any applicable law or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other party);
 - (iv) the subject of an application (not contested in good faith and that is not stayed, withdrawn or dismissed within 30 days of its commencement) made to a court for an order or an order is made, that it be wound up or that a liquidator be appointed to it;
 - (v) has appointed over any or all of its assets, a receiver, receiver and manager, trustee, administrator or similar official; or
 - (vi) suffers or incurs anything analogous, or having substantial similar effect to, any of the events described in this definition under the law of any applicable jurisdiction.
- (ff) **Intellectual Property Rights** means all rights, titles and interests wherever subsisting throughout the world and whether registered or not (including any applications, renewals, extensions, restorations or re-instatements), held by a party, in and to copyright works, logos, designs, inventions, software, code (compiled or otherwise) circuit layouts, trade secrets, patents, trademarks and business names, and including any rights of a related nature.
- (gg) **Legislative Obligations** means provisions of consumer trade practices statutes, rules and regulations which may be applicable to our supply of Products to you and which may imply certain non-excludable warranties or conditions or mandate certain statutory guarantees.
- (hh) **Location** means the place the Products & Family Zone Services have been located and/or where our Software has been installed;
- (ii) **Managed Services** means the outsourced management, monitoring and configuration of Products as described in our Terms of Service.
- (jj) **Marks** means Trademarks, logos and service marks, wherever subsisting throughout the world and whether registered or not (including any applications, renewals, extensions, restorations or re-instatements).
- (kk) **Patches** means temporary software programming, sub-routines or work arounds produced after the commencement date to overcome errors or to improve the performance or operation of the Products without significantly altering the performance characteristics or adding additional functionality.
- (ll) **Party** means a party to this Agreement.
- (mm) **Personally Identifiable Information** means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context.
- (nn) **PPSA** means:
- (i) if you are based in Australia: The Act means the Personal Property Securities Act 2009; and
 - (ii) if you are based in New Zealand: Personal Property Securities act 1999.
- (oo) **PPSA Exclusions** means:
- (i) If you are from Australia: sections 95 (notice of removal of accession); 96 (retention of accession); 125 (obligations to dispose of or retain collateral); 130 (notice of disposal); 132(3)(d) (contents of statement of account after disposal); 132(4) (statement of account if no disposal); 135 (notice of retention); section 142 (redemption of collateral); section 143 (re-instatement of security agreement); and 157 (rights to receive a verification statement) of the PPSA.
 - (ii) If you are from New Zealand: Your right to receive verification statements connected with any financing statement or financing change statement registered under the PPSA in relation to the security interest arising under this Agreement; sections 114(1)(a) 133, s116, 199, 120(2), 121, 125, 126, 127, 129, 131 and 132 (PHA) of the PPSA.
- (pp) **Products** means the Family Zone owned and developed and/or Third Party cyber safety and security products and services that we provide customers, either directly or through Resellers, and includes without limitation Services, Hardware, Software, Consulting, API's, Support and Documentation.
- (qq) **Product Description** means our description of certain features of our Products, as set out on our website and changed by us from time to time.
- (rr) **Product Support** means the Product maintenance and escalated customer support as described in our Terms of Service.
- (ss) **Regulatory Impediment** means where a government, regulatory authority or controlling body of any country or territory in which the Family Zone Applications are distributed or made available, imposes any law, restriction or regulation that makes it illegal to distribute or make available the Family Zone Applications, or any portion of them, into any country or

STANDARD TERMS FOR ENTERPRISE CUSTOMERS

territory, or if any such law, restriction or regulation places a substantial burden on Family Zone; substantial is measured by reference to Family Zone's economic benefit relating to the Family Zone Applications.

- (tt) **Reseller** means a party appointed by us to resell the Products & Family Zone Services to customers.
- (uu) **Services** means cyber safety and security technology and related services as described in our Terms of Service and includes any substituted Services.
- (vv) **Service Changes** means changes to our Terms of Service.
- (ww) **Support** means Customer Support, Managed Services and Product Support that we or our Resellers may supply Customers as described and in accordance with our Terms of Service.
- (xx) **Service Level** has the meaning set out in Terms of Service.
- (yy) **Software** means an executable program and/or application associated with the Products.
- (zz) **Sold Hardware** means Hardware we sell to Customers in accordance with our Special Terms: Terms of Trade (as set out in our Terms of Service & Supply).
- (aaa) **Subcontractor** means a Third Party appointed to perform tasks contemplated by this Agreement by a Party to this Agreement.
- (bbb) **Supported Releases** means unless otherwise advised in writing, the current production versions of Family Zone developed Software and prior release(s) in the preceding 12 months.
- (ccc) **Supported Platforms** means the Hardware and software platforms (including relating to the OEM Licenses) on which Family Zone permits installation of Family Zone developed Software.
- (ddd) **Terms of Service** means our specific terms and conditions related to our supply of Products as set out on our website, described as Terms of Service & Supply, and updated from time to time.
- (eee) **Third Party** means any organisation or individual or company who is not a Party to this Agreement but is involved in the delivery of Products to you.
- (fff) **Term** means the term of this Agreement from the Commencement Date until terminated.

10.2 Interpretation

- (a) In this Agreement, unless the context otherwise requires:
 - (i) headings and boldings are for convenience only and do not affect the interpretation of this Agreement;
 - (ii) words importing the singular include the plural and vice versa;
 - (iii) words importing gender include every gender;
 - (iv) a reference to a thing includes part of that thing;
 - (v) part and clause headings do not affect the construction of this Agreement;
 - (vi) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
 - (vii) terms of inclusion are to be interpreted without limitation;
 - (viii) a covenant or agreement by more than one person binds, and is enforceable against, those persons jointly and each of them severally;
 - (ix) a reference to an Act of Parliament includes the regulations, rules, orders and by-laws made under that Act and a reference to any Act of Parliament shall include any amendments, re-enactment, variation or extension or substituted statutory provision;
 - (x) a reference to a document includes every permitted amendment, variation or supplement to, or replacement or novation of, that document;
 - (xi) a reference to a party to this Agreement or to any other document referred to in this Agreement includes that party' successors and permitted assigns;
 - (xii) an expression importing a natural person includes any company, partnership, joint venture, association, corporation, or other body corporate and any government agency;
 - (xiii) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, a party, annexure, exhibit and schedule to, this Agreement and a reference to this Agreement includes any annexure, exhibit and schedule;
 - (xiv) where the day on or by which anything is to be done is not a Business Day, that thing must be done on or by the preceding business Day; and
 - (xv) no provision of this Agreement will be construed adversely to a party solely because the party was responsible for the preparation of this Agreement or that provision.