

## IT SUPPORT TERMS AND CONDITIONS (Effective from February 2019)

### **Application and entire agreement**

In buying from Concero, the Customer acknowledges and agrees that it is buying goods and services as a business and not as a consumer. As a business, purchases the Customer makes from Concero will not benefit from the same statutory protection available to consumers under the Sale of Goods Act 1979 (as amended), the Consumer Contracts Regulations 2013 or any other consumer protection legislation. These Terms and Conditions must be read in conjunction with the other Terms and Conditions. These additional terms can be found at [www.concerouk.com](http://www.concerouk.com) These Terms and Conditions are subject to change.

These Terms and Conditions should also be read in conjunction with any Service Level Agreement (SLA) or IT Support Proposal/Contract that is effective between Concero and the Customer.

1. These Terms and Conditions apply to the provision of the services detailed in our quotation (**Services**) by Concero UK Ltd a company registered in England and Wales under number 06673066 whose registered office is at Suite D, The Westlands, 132 Compton Road, Wolverhampton, WV3 9QB (**Concero, we** or **us**) to the person buying the services (**you, Contract Holder** or **customer**). Concero Technology Services and Concero Property Services are both registered trading names of Concero UK Ltd.
2. You are deemed to have accepted these Terms and Conditions when you accept our quotation or from the date of any performance of the Services (whichever happens earlier) and these Terms and Conditions and our quotation (**the IT Support Proposal/Contract**) are the entire agreement between us.
3. You acknowledge that you have not relied on any statement, promise or representation made or given by or on our behalf. These Conditions apply to the Contract to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
4. These Conditions apply to all of the Services and Products (as defined below) provided by Concero UK Ltd. If you do not wish to be bound by these Conditions, the Customer should not order or accept performance of the Services. These Conditions apply to the exclusion of all other terms and conditions that may be provided by the Customer.
5. Service Type: IT Support
6. IT Support Products Covered:
  - Scheduled Support
  - Scheduled + On-Demand
  - On-Demand

- Bespoke

## **Interpretation**

7. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
8. The headings in these Terms and Conditions are for convenience only and do not affect their interpretation.
9. Words imparting the singular number shall include the plural and vice-versa.

## **Services**

10. We warrant that we will use reasonable care and skill in our performance of the Services which will comply with the quotation, including any specification in all material respects. We can make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary.
11. We will use our reasonable endeavours to complete the performance of the Services within the time agreed or as set out in the quotation; however, time shall not be of the essence in the performance of our obligations.
12. All of these Terms and Conditions apply to the supply of any goods as well as Services unless we specify otherwise.

## **Responsibilities of the Contract Holder**

13. Customers are obliged to specifically nominate: an IT Contracts Manager, an IT Coordinator and an IT Safeguarding Officer.
14. Concero must be notified in writing of any changes in the personnel assigned to any of the above positions (IT Contracts Manager, IT Coordinator, IT Safeguarding Officer) within 5 working days of any such changes being made.
15. The provision of the Services by Concero is subject to the Contract Holder performing or complying with all of its responsibilities set out in these Conditions. For the avoidance of doubt, Concero may without notice suspend or terminate the Services in the event that:
  - 15.1. any of the Contract Holder's responsibilities as set out in these Conditions is not performed; or
  - 15.2. any Virus is transmitted onto any of Concero's systems.
16. We are not liable for any delay or failure to provide the Services if this is caused by your failure to comply with the provisions of this section (**Responsibilities of the Contract Holder**).

## **Incident Logging Process**

17. It is essential that customers adhere at all times to the Incident Logging Process which can be found at [www.concerouk.com](http://www.concerouk.com)

## **Visit Schedules**

18. Planned visits and visit schedules are subject to change for a variety of reasons. Any changes made are at Concero's sole discretion. Customers will be notified of any changes made to schedules within 5 working days from when such changes were implemented.

## **Credit Control**

19. Concero reserves the right to run a credit check with a relevant credit agency before giving a Customer credit, and to validate any credit card account holder or delivery address details.

20. Concero reserves the right to impose credit limits on customer accounts, with amounts set at Concero's sole discretion.

## **Software and Licenses**

21. Any Software made available to download or purchase from Concero is the copyrighted work of Concero and/or its suppliers. When the Customer purchases Software, the Customer is actually purchasing a license to use the Software rather than purchasing the Software itself. Software licenses purchased from Concero are subject to the licence agreement that accompanies the Software (the "Licence Agreement"). The Customer will be required to agree to the terms and conditions of the Licence Agreement when the Software is installed. It is the responsibility of the Customer to ensure the Licence Agreement is for a sufficient number of end users.

22. Any licence to use a Subscription Service made available to download or purchase from Concero is the copyrighted work of Concero and/or its suppliers. When the Customer purchases a licence, the Customer is actually purchasing a license to use the Subscription Service rather than purchasing the Subscription Service itself. It is the responsibility of the Customer to ensure sufficient licences are purchased for the number of end users or Hardware that will access the Subscription Service.

23. If the Customer is furnished with a developer's software licence, the same must be signed and returned to Concero or, if applicable, the developer within seven (7) days or as otherwise specified in the said licence. In the event that the Customer fails to sign and return the said licence in accordance with this sub-clause:

24.1) Concero reserves the right to withhold release and/or support of the Software; or

24.2) if Software has been released to the Customer, Concerro reserves the right to terminate the Software Licence and to receive full payment for the Software.

24.3) the Customer undertakes not to copy Software in whole or in part other than up to a maximum of three (3) machine readable copies for Customer's internal use on a single designated CPU;

24.4) the Customer undertakes not to reproduce, translate, adapt, vary or modify the Software;

24.5) the Customer undertakes to reproduce and include Concerro's or any third party's copyright notice and/or any other legend on each copy of the Software including partial copies and modifications of the Software; and

24.6) the Customer agrees not to reverse assemble or reverse compile the Software in whole or in part except to the extent permitted by law.

24. The Customer shall grant access to the Software only to those employees and contractors requiring such access and shall take all such reasonable steps to ensure that all such persons are bound by the same obligations as the Customer and in particular shall ensure that such obligations are expressed so as to ensure beyond any termination of such persons' contracts with the Customer.

25. Concerro shall be entitled from time to time during a Working Day, on giving reasonable notice, to enter on to the Customer's premises where the Software is installed to verify whether the Customer is complying with the Agreement.

### **Anti-Virus Protection**

26. The Contract Holder must ensure that the Network is protected against the threat of virus infection by installing and maintaining up to date anti-virus software.

### **Software Maintenance**

27. The Contract Holder must keep the Network current and secure by applying all appropriate validated service releases and software updates from Concerro or the appropriate 3rd party vendor.

### **Acceptable Use Policies**

28. The Contract Holder must, at all times, implement and enforce an Acceptable Use Policy for the Network. The Contract Holder shall be responsible for ensuring that all users of the Network comply with the Acceptable Use Policy. Further, where there is a breach of the Acceptable Use Policy, the Contract Holder shall take such steps as are appropriate in all the circumstances (which may, for the avoidance of doubt, include disciplinary action and/or ceasing to permit further use of the Network by the relevant individual(s)).

## **Internet Access**

29. The Contract Holder shall be responsible for procuring all required Internet connections and, for the avoidance of doubt, all Internet costs shall be entirely the responsibility of the Contract Holder

## **Licensing**

30. The Contract Holder must have in force current software licenses for all software on the Network.

## **Network maintenance and configuration**

31. The Contract Holder must maintain the configuration, hardware and cabling relating to the Network(s) in good working order and within any specifications provided by Conzero.

## **Server maintenance**

32. The Contract Holder must maintain securely, current backup copies of all relevant live systems that enable effective running of the Contract Holders network. These backup copies should enable a successful restoration of the live system by implementing a satisfactory backup approach using software tools and processes to test the quality. Suitable retention policies following best practice should be employed to enable a recovery in the event of a network failure. The Contract Holder must provide access to the current backup copies to Conzero (and any Conzero authorised third party) personnel connected with the provision of the Services where required.

## **Network access**

33. The Contract Holder must permit Conzero (and Conzero authorised third party) personnel connected with the provision of the Services access to the Contract Holder's premises to work on the Network where reasonably required.

## **Remote diagnostic services**

34. Where required to provide any of the Services, the Contract Holder shall ensure the provision of an installed data link through which Conzero can access the Network using Conzero's chosen remote access software and technology. The Contract Holder must also provide access to those areas of the Network as required by Conzero for Conzero to deliver the Services.

## **Fair Usage and Network Management Training**

35. The Contract Holder has unlimited usage of the Service however, if the number of support calls are significantly greater than the average, a price discussion may be had with the appropriate account manager.

36. If in Concero's reasonable opinion excessive use of the Services is caused by a lack of network management training, Concero will bring this to Contract Holder's attention, and the Contract Holder must address any training need to the satisfaction of Concero without delay.

## **Strategic Change**

37. The Contract Holder must notify Concero before strategic changes are made to the Network. Advance knowledge of planned changes will ensure that Concero engineers have current information on the status of the Network, helping Concero to resolve issues affecting the Network more efficiently. Concero considers strategic changes to be changes that significantly alter the Network including:

- 37.1. adding a new server to the Network;
- 37.2. changing the configuration or role of a server connected to the Network;
- 37.3. changes to the topology and/or infrastructure of the Network; and/or
- 37.4. change of Internet provision (including change of Internet Service Provider).

## **Service Limitations**

38. The provision of the Services relates only to the Network(s) as set out on the original network support quotation or subsequent network support renewal forms. No quotation or renewal form will be accepted for part of a Network.

39. The Services do not include:

- 39.1. assistance with relocation of the Network(s) or part of the Network;
  - 39.2. any provision of the Services required as a result of any accident, neglect, alterations, improper use or misuse (including in breach of the Acceptable Use Policy) of the Network or any part of the Network;
  - 39.3. any provision of Services necessitated by repairs to the Contract Holder's premises, hardware or software attempted by non-Concero personnel;
  - 39.4. assistance with writing or rewriting any software;
  - 39.5. project management;
  - 39.6. support for software on the network (other than the network software itself);
  - 39.7. advice given in connection with the removal or treatment of any Virus (please see also Condition 41 below);
  - 39.8. support in respect of products and/or services made available by Concero to Contract Holders and that are categorised by Concero as subject to a separate agreement and charging regime; and
  - 39.9. any on-site time at the Contract Holder's premises or any other actions from Concero other than through a remote diagnostic session.
40. Should the Contract Holder wish to receive advice from Concero concerning the treatment of any of the effects of a Virus, Concero shall be entitled (but not obliged) to provide such advice but the Contract Holder accepts that, as Concero does not have specialist knowledge concerning Viruses, such information is given on a reasonable endeavours basis and the Contract Holder shall not be entitled to rely on such advice. Should the Contract Holder wish to receive specialist advice concerning any Virus, the Contract Holder agrees to

obtain such advice directly from a manufacturer of virus-checking software or another specialist in that field of expertise.

### **Advice Concerning Viruses**

41. Should the Contract Holder wish to receive advice from Concero concerning the treatment of any of the effects of a Virus, Concero shall be entitled (but not obliged) to provide such advice but the Contract Holder accepts that, as Concero does not have specialist knowledge concerning Viruses, such information is given on a reasonable endeavours basis and the Contract Holder shall not be entitled to rely on such advice. Should the Contract Holder wish to receive specialist advice concerning any Virus, the Contract Holder agrees to obtain such advice directly from a manufacturer of virus-checking software or another specialist in that field of expertise.

### **Provision of Software for The Remote Diagnostic Service**

42. No software licence of any sort is granted to the Contract Holder on software provided as part of any remote diagnostic service to the Contract Holder and the Contract Holder is not permitted to use in any way any software resident on the Network which may be provided as part of any such service.

43. Concero may at its discretion at any time remove any software referred to in Condition 42 (above) from the Contract Holder's Network. This provision shall override any conflicting provision in any software licence agreement provided to the Contract Holder in connection with the service.

### **Complaints/Disputes**

44. Any dispute must be raised in writing with the Customer's or Concero's representative as appropriate giving all relevant details including the nature and extent of the dispute. The Customer and Concero will use reasonable endeavours to resolve any dispute. If a dispute cannot be resolved, then the Customer should refer to the complaints process on [concerouk.com](http://concerouk.com)

### **Term**

45. The term for each Support Contract shall be as agreed between the parties but, for the avoidance of doubt, shall not be deemed to have commenced until Concero accepts the relevant order.

### **Automatic Renewal**

46. The Services shall commence on the date referred to in Condition 45 (above) and shall continue for the Initial Term. At the end of the Initial Term the Services shall automatically roll on for successive periods of twelve (12) months (unless otherwise agreed in writing by the parties) unless at least three (3) month's written notice to terminate a Support Contract is given by either party to the other party prior to the expiry of any subsequent twelve (12) month term.

47. Written notice given to prevent automatic renewal of a Support Contract must be delivered by recorded delivery to Concerro's registered office (see Clause 1).

### **Period of Services Availability**

48. The Services will be carried out by Concerro during the hours set out below:

47.1. Telephone/ Webchat: 08.30 – 16.30 Mon-Fri (excluding bank holidays and Christmas Shutdown); and

47.2. Email/Cloud based Service Desk: 24/7 365,

47.3. Onsite Support: 08.00 – 18.00 Mon-Fri (excluding bank holidays and Christmas Shutdown)

Calls will be actioned between the hours 08.30 – 16.30 Mon-Fri (excluding bank holidays and Christmas Shutdown)

49. The Contract Holder undertakes to ensure that a member of the Contract Holder's trained operations staff will be in attendance where the Services are being carried out at the Contract Holder's site.

### **Notice Periods**

50. Any notice required to be given under the Agreement shall be in writing and shall be sent to the address of the Customer set out in each order (for notices to be sent to the Customer) or the registered office of Concerro (for notices sent to Concerro).

51. Any notice shall not be effective unless sent by hand, registered post or equivalent and unless delivered by hand (where it shall be deemed received on delivery) it shall be deemed to have been received three (3) Working Days after the date of posting. – recorded and signed for.

### **Fees**

52. The fees (**Fees**) for the Services are set out in the quotation and are on a time and materials basis.

53. In addition to the Fees, we can recover from you a) reasonable incidental expenses including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, b) the cost of services provided by third parties and required by us for the performance of the Services, and c) the cost of any materials required for the provision of the Services.

54. You must pay us for any additional services provided by us that are not specified in the quotation in accordance with our then current, applicable daily rate in effect at the time of performance or such other rate as may be agreed between us. The provisions of clause 53 also apply to these additional services.

55. The Fees are exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

## Cancellation and amendment

56. We can withdraw, cancel or amend a quotation if it has not been accepted by you, or if the Services have not started, within a period of 30 days from the date of the quotation, (unless the quotation has been withdrawn).
57. Either we or you can cancel an order for any reason prior to your acceptance (or rejection) of the quotation.
58. If you want to amend any details of the Services you must tell us in writing as soon as possible. We will use reasonable endeavours to make any required changes and additional costs will be included in the Fees and invoiced to you.
59. If, due to circumstances beyond our control, including those set out in the clause below (**Circumstances beyond a party's control**), we have to make any change in the Services or how they are provided, we will notify you immediately. We will use reasonable endeavours to keep any such changes to a minimum.

## Payment

60. We will invoice you for payment of the Fees either:
- a. when we have completed the Services; or
  - b. on the invoice dates set out in the quotation.
61. You must pay the Fees due within 28 days of the date of our invoice or otherwise in accordance with any credit terms agreed between us.
62. Conzero reserves the right to charge interest and compensation under the Late Payment of Commercial Debts (interest) Act 1998 from time to time on any payment or any part payment overdue calculated from the date due and to recover its expenses including legal fees and costs of collection and to suspend delivery, performance of any warranty or (at Conzero's option) forthwith to determine the same. Conzero has no obligation to provide service or support until Conzero has received full payment for the Product or services or support that the Customer has purchased.
63. Time for payment shall be of the essence of the Contract. If payment is not received within 28 days of the payment date, then a £25.00 administration fee will be charged per invoice. However, if a full payment is received within the 7 days following the original 28-day payment date then the £25.00 administration fee will be waived. Interest will be charged if full payment is still not received 7 days after the original 28-day payment date, the date of which shall be detailed within any invoice received.
64. Without limiting any other right or remedy we have for statutory interest, if you do not pay within the period set out above, we will charge you interest at the rate of 8% per annum above the base lending rate of the Bank of England from time to

time on the amount outstanding until payment is received in full.

65. All payments due under these Terms and Conditions must be made in full without any deduction or withholding except as required by law and neither of us can assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

66. If you do not pay within the period set out above, we can suspend any further provision of the Services and cancel any future services which have been ordered by, or otherwise arranged with, you.

67. Receipts for payment will be issued by us only at your request.

68. All payments must be made in British Pounds unless otherwise agreed in writing between us.

### **Passing of Risk**

69. Risk of loss and damage shall pass from Concero to the contract Holder upon delivery of any products (including loan items) to the Contract Holder or its agent.

### **Confidential Information**

70. The Contract Holder agrees (unless agreed otherwise in writing by Concero) to maintain in confidence and not disclose, reproduce or copy any materials, documentation, specification or software in any form whatsoever provided to the Contract Holder in connection with the Services. The Contract Holder shall take all reasonable steps to ensure that its employees are bound by the same obligations and that such obligations endure beyond any termination of employment with the Contract Holder.

### **Warranty and Concero's Liability**

71. Concero warrants to the Contract Holder that it will use all reasonable skill and care in carrying out the Services. There are no warranties, conditions, guarantees or representations whether express implied by statute or otherwise, oral or in writing except as provided in these Conditions.

72. Notwithstanding Condition 71 (above) all rights which the Contract Holder may have under the Consumer Protection Act 1987 and the Unfair Contract Terms Act 1977 are in addition to those set out in these Conditions.

73. In the event of a breach of the warranty in Condition 71 (above), Concero's sole liability shall be to re-perform at its expense any of the Services which do not conform to the said warranty

74. If Concero fails without cause to perform the Services in accordance with its obligations under these Conditions, the Contract Holder may recover an amount to compensate for any direct physical loss which is suffered as a result of

Concero's failure, subject always to a maximum aggregate liability in any calendar year of the total charges paid or payable for the Services in question.

75. Concero shall be liable without limit for death or personal injury arising from its performance of the Services to the extent that it results from the negligence of Concero or its employees. Concero shall also be liable for any other direct loss of or damage to tangible property caused solely by the negligence of Concero or its employees, subject always to its maximum aggregate liability of the total amount of our liability is limited to the total amount of Fees payable by you under the Contract.
76. The Contract Holder agrees that Concero will not be liable for any loss caused by the Contract Holder's failure to perform its obligations as set out or referred to in these Conditions or for any act of the Page 4 of 8 Contract Holder which is in contravention of these Conditions. The Contract Holder also agrees that Concero will not be liable for the effects of any further Virus attack occasioned during an attempt by Concero to clean the Network from a previous Virus attack.
77. Concero shall not in any event be liable for any indirect, special or consequential loss whether statutory or otherwise, howsoever arising (including but not limited to loss of anticipated profits or of data) in connection with or arising out of the Services, even if Concero shall have been advised of the possibility of such potential loss and shall not be liable for any loss except as provided for in these Conditions.
78. Except in respect of the liability of Concero for death or personal injury resulting from the negligence of Concero or its employees or in respect of a claim for non-payment of monies due, no action regardless of form arising out of the transactions in relation to these Conditions may be brought by either party more than two (2) years after the cause of action has accrued.

## **General Advice**

79. The Contract Holder accepts that when providing any oral advice or suggestions during the Services, Concero is relying upon information given to it by the Contract Holder about the Contract Holder's Network, its configuration and usage, and any future improvement or strategic direction. Whilst it is given in good faith, it is for the Contract Holder to verify whether any such advice or suggestions are suitable for its purposes and Concero shall not be liable in contract, tort or otherwise for any direct, indirect or consequential loss or damage arising out of or in connection with any such advice or suggestions. Any oral suggestions or advice tendered by Concero must be confirmed in writing before Concero will accept any liability for any such advice, which shall, in any event be limited to a refund of the charges paid for the relevant Services. In no event will Concero be liable for any indirect or consequential loss or damage arising out of or in connection with any such written confirmation. The provisions of this Condition 79 shall be without prejudice to the provisions of Condition 41 (above).

## **Change control**

80. The Customer may at any time during the term of this Agreement request an increase or decrease in the volume of the Services, a change in the Specification, or the addition of new Services (Change Request) by notifying Concero in writing of its requirements.

81. Concero shall give due consideration to any Change Request from Customer and shall, within 30 Working Days of receiving a Change Request from the Customer: a. confirm its acceptance of the Change Request, without any further variation to the terms of the Agreement, in which case the parties shall execute a variation to the Agreement as soon as reasonably practicable and Concero shall implement the Change Request accordingly; or b. provide a written proposal for accepting the Change Request, subject to any variation that it reasonably considers necessary to the Services, the Specification or the Service Charges, including any new Services (Change Proposal) agreement date; or c. if Concero believes it is not reasonably practicable to accept the Change Request, with or without any such variation, provide the Customer with a written statement of its reasons for doing so.

82. Any Change Proposal provided by Concero under the above clause shall be based on the Service Charges or, if this is not appropriate, shall be a fair and reasonable quotation for the Change Request.

83. The Customer shall give due consideration to Concero's Change Proposal under the clause above and shall within 30 Working Days after receipt of the Change Proposal either give Concero a written notice accepting the Change Proposal (subject to or without further negotiation) or rejecting the Change Proposal. If the Customer accepts the Change Proposal, the parties shall as soon as reasonably practicable execute a variation to the Agreement and Concero shall implement the agreed variation.

84. Concero shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, provided that Concero gives the Customer reasonable notice of such changes and that such changes do not materially affect the nature/scope of the Services or the Service Charges.

## **Sub-Contracting and assignment**

85. We can at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under these Terms and Conditions and can subcontract or delegate in any manner any or all of our obligations to any third party.

86. You must not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or

obligations under these Terms and Conditions.

## **Installation**

87. As well as the terms and conditions contained within this agreement, projects that contain a provision for the installation of goods may also have to adhere to bespoke terms outlined within an individual project document.

88. Goods procured by the customer externally to Conzero may or may not affect the service delivered. Goods procured by the customer externally to Conzero may or may not require a project-level installation, of which Conzero will decide at its sole discretion. This may or may not incur additional costs to the customer.

89. Conzero reserves the right to refuse to install goods procured.

## **Handover**

90. The date of Conzero's acquisition of control of a customer's network (point of handover) shall be agreed in writing between the two parties.

91. Conzero will require all administration passwords for the customer network at the point of handover. This includes, but is not limited to; credentials providing access for Servers, Apple ID's and VPP accounts.

92. At the point of receiving any relevant passwords, Conzero will change any passwords received.

93. Failure to provide all necessary passwords will result in a delay to the delivery of Conzero's service.

94. At the point of handover Conzero will delete any pre-existing back-up schedules.

95. At the point of handover Conzero shall complete a manual back-up of the Customer's network.

## **Additional Services**

96. As outlined within the Service Level Agreement (SLA) additional services (meaning services external to Conzero's standard service offering and/or remit) can be requested by customers.

97. Acceptance of additional service requests is decided with Conzero's sole discretion.

98. Certain additional services will incur additional costs.

## **Audio/Visual (AV) Maintenance**

99. Deep cleaning of projectors can be purchased as an additional service and is

not included in our standard service offering.

100. Conzero will not cover the cost of replacement parts.

101. Conzero will not cover the costs of packaging and postage for off-site warranty repairs.

102. Conzero will not cover the cost of third party labour charges.

103. Conzero will be unable to clean projectors that out of reach when using step ladders (of which Conzero shall provide) as part of our standard AV Maintenance service offering.

104. For 'Scheduled' customers: AV Maintenance visits will constitute a 'scheduled' visit made up of purchased 'scheduled' visit sessions.

## **Termination**

105. Either party may terminate this Agreement by giving the other party a minimum of 60 days' prior written notice to the end of the Initial Term or the Renewal Term. Written notice for termination must be on official letter headed stationary and delivered via recorded delivery to Conzero UKs' registered office.

106. We can terminate the provision of the Services immediately if you:

- a. commit a material breach of your obligations under these Terms and Conditions; or
- b. fail to make pay any amount due under the Contract on the due date for payment; or
- c. are or become or, in our reasonable opinion, are about to become, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor; or
- d. enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with its creditors; or
- e. convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part of them, any documents are filed with the court for the appointment of an administrator in respect of you, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for your winding up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency; or

- f. undergo a change of control (within the meaning of section 1124 of the Corporation Tax Act 2010); or
- g. (an individual) dies or as a result of illness or incapacity becomes incapable of managing his or her own affairs.

## **Consequences of Termination**

107. On termination or expiry of this Agreement:

a. the Customer shall immediately pay to Concero all of Concero's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Concero may submit an invoice, which shall be payable immediately on receipt;

b. the Customer shall, within a reasonable time, return all of Concero's Equipment and any relevant Deliverables remaining the property of Concero. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping.

108. Termination or expiry of the Agreement shall not affect any rights, remedies, obligations or 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 agreement which existed at or before the date of termination or expiry.

109. Other than as set out in the Agreement, neither party shall have any further obligation to the other under the Agreement after its termination.

## **Intellectual property**

110. We reserve all copyright and any other intellectual property rights which may subsist in any goods supplied in connection with the provision of the Services. We reserve the right to take any appropriate action to restrain or prevent the infringement of such intellectual property rights.

## **Liability and indemnity**

111. Our liability under these Terms and Conditions, and in breach of statutory duty, and in tort or misrepresentation or otherwise, shall be limited as set out in this clause.

112. The total amount of our liability is limited to the total amount of Fees payable by you under the Contract.

113. We are not liable (whether caused by our employees, agents or otherwise) in connection with our provision of the Services or the performance of any of our other obligations under these Terms and Conditions or the quotation for:

- a. any indirect, special or consequential loss, damage, costs, or expenses or;
- b. any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; or
- c. any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; or
- d. any losses caused directly or indirectly by any failure or your breach in relation to your obligations; or
- e. any losses arising directly or indirectly from the choice of Services and how they will meet your requirements or your use of the Services or any goods supplied in connection with the Services.

114. You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) caused by you or your agents or employees.

115. Nothing in these Terms and Conditions shall limit or exclude our liability for death or personal injury caused by our negligence, or for any fraudulent misrepresentation, or for any other matters for which it would be unlawful to exclude or limit liability.

## **Data Protection**

116. When supplying the Services to the Customer, the Service Provider may gain access to and/or acquire the ability to transfer, store or process personal data of employees of the Customer.

117. The parties agree that where such processing of personal data takes place, the Customer shall be the 'data controller' and the Service Provider shall be the 'data processor' as defined in the General Data Protection Regulation (**GDPR**) as may be amended, extended and/or re-enacted from time to time.

118. For the avoidance of doubt, 'Personal Data', 'Processing', 'Data Controller', 'Data Processor' and 'Data Subject' shall have the same meaning as in the GDPR.

119. The Service Provider shall only Process Personal Data to the extent reasonably required to enable it to supply the Services as mentioned in these terms and conditions or as requested by and agreed with the Customer, shall not retain any Personal Data longer than necessary for the Processing and refrain from Processing any Personal Data for its own or for any third party's purposes.

120. The Service Provider shall not disclose Personal Data to any third parties other than employees, directors, agents, sub-contractors or advisors on a strict need-to-know basis and only under the same (or more extensive) conditions as set out in these terms and conditions or to the extent required by applicable legislation and/or regulations.

121. The Service Provider shall implement and maintain technical and organisational security measures as are required to protect Personal Data Processed by the Service Provider on behalf of the Customer.

122. Further information about the Service Provider's approach to data protection are specified in its Data Protection Policy, which can be found on our website. For any enquiries or complaints regarding data privacy, you can contact Company Operations Manager at the following e-mail address: [accounts@concerouk.com](mailto:accounts@concerouk.com).

## **Miscellaneous**

123. Concerou shall be fully entitled to use in any way it deems fit any skills, techniques, concepts or know-how acquired, developed or used in course of performing the Services.

124. Neither party shall be liable to the other for any delay in or failure to perform its obligations hereunder (other than a payment of money) provided that such a failure is due to causes beyond its reasonable control.

125. Failure by Concerou to exercise or delay exercising any of these Conditions shall not constitute or be deemed to be a waiver of Concerou's rights hereunder nor prejudice Concerou's rights to take subsequent action.

126. The headings in these Conditions are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of these Conditions.

127. The invalidity or unenforceability for any reason of any part of these Conditions shall not prejudice the continuation in force of the remainder thereof.

128. Neither party shall assign this agreement without the prior written consent of the other, provided that Concerou shall be entitled to assign both its rights and obligations under this Agreement to any other subsidiary (of any level) of Concerou Ltd by giving written notice to such effect to the Contract Holder. Concerou shall also be entitled to subcontract the performance of its obligations under these Conditions and, also, Concerou may use tools and services provided by third parties to deliver the Services to you.

129. Where the Contract Holder comprises two or more persons their liability and obligations to Concerou shall be joint and several.

130. The Contract Holder acknowledges that he/she/it has read these Conditions and understands and agrees to be bound by its terms, conditions and charges. The Contract Holder further agrees that these Conditions and the documents specifically incorporated herein are the complete and exclusive statement of the mutual understanding of the parties which supersedes and cancels all previous oral and written agreements and communications relating to the subject matter hereof.

131. Any equipment provided by Concero is provided only for the purposes of Concero providing the Services and no title or ownership in the same shall pass to the Contract Holder.

132. Concero reserves the right to change the Conditions from time to time either (i) on giving the Contract Holder no less than thirty (30) days' notice of the change and the date on which the change takes effect and/or (ii) by updating the same on its website at [www.concerouk.com](http://www.concerouk.com), in which case the updated Conditions shall take effect thirty (30) days after posting on [www.concerouk.com](http://www.concerouk.com).

133. Concero will make reasonable endeavours to ensure all Concero personnel and subcontractors have suitable CRB/DBS clearance, however it remains the responsibility of the customer to implement their normal procedures in dealing with third party access to the customer's sites.

### **Circumstances beyond a party's control**

134. Neither of us is liable for any failure or delay in performing our obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question. If the delay continues for a period of 90 days, either of us may terminate or cancel the Services to be carried out under these Terms and Conditions.

### **Communications**

135. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

136. Notices shall be deemed to have been duly given:

- a. when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
- b. when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
- c. on the fifth business day following mailing, if mailed by national ordinary mail;  
or
- d. on the tenth business day following mailing, if mailed by airmail.

137. All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

## **Anti-Bribery**

138. The Contract Holder shall ensure that it and all of its staff, agents, contractors and any other party performing its obligations or exercising its rights under or in connection with this Agreement and/or any other agreement that the Contract Holder may have with Conzero, complies at all times with all applicable anti-bribery and/or corruption laws, regulations and codes of conduct in all jurisdictions. The Contract Holder shall, whenever requested by Conzero, provide evidence of the measures, steps and processes that it takes to ensure compliance with the provisions of this clause and the relevant laws, regulations and codes of conduct.

## **No waiver**

139. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy nor stop further exercise of any other right, or remedy.

## **Severance**

140. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions will be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

## **Law and jurisdiction**

141. These Conditions shall be deemed to have been made in, and shall be construed pursuant to, the laws of England and the parties agree to submit to the exclusive jurisdiction of the English courts.