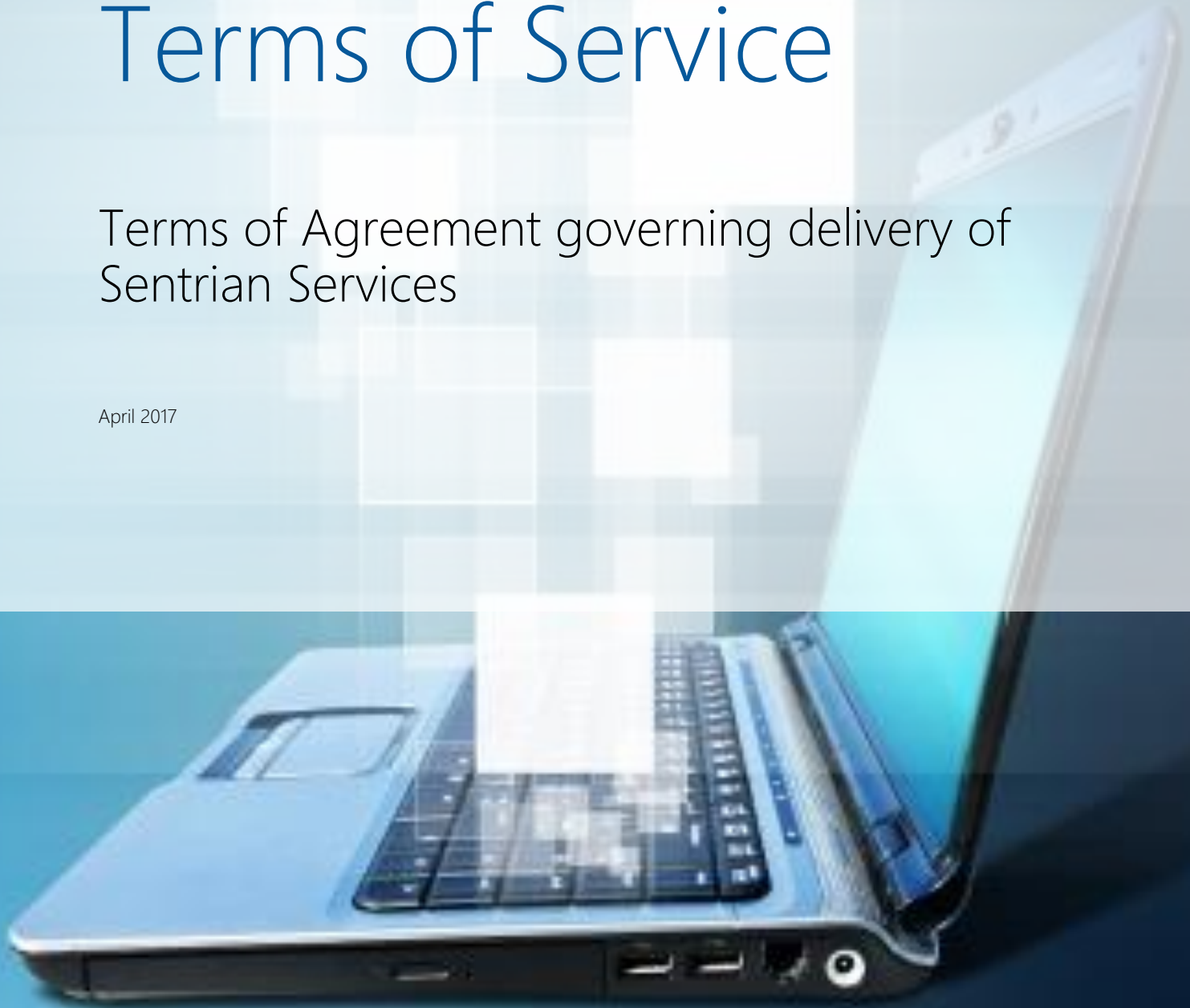


# Terms of Service

Terms of Agreement governing delivery of  
Sentrion Services

April 2017



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Sentrion Pty Ltd  
ABN: 15 055 047 875



## 1. INTERPRETATION

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### 1.1. Definitions

In this agreement:

- a) Acceptable Use Policy (AUP) means the acceptable use policy provided by us to you which may be updated from time to time and is available at [www.sentrian.com.au](http://www.sentrian.com.au).
- b) Accepted Proposal means a proposal outlining fees and specifications relating to any Service, agreed between the parties in accordance with clause 2.2.
- c) Confidential information means all spoken, written or electronically stored information belonging to or relating to a party or its clients including our pricing and the terms of this agreement, but excluding information in the public domain (other than by default under this agreement) or information independently known to the receiving party.
- d) CPI means the Consumer Price Index All Groups for Brisbane, Queensland, as published by the Australian Bureau of Statistics or its successor, and includes any published index replacing the Consumer Price Index.
- e) Defined Abuse means misuse of the Service including: (a) giving an unauthorized person your account and password details; (b) deliberately or recklessly disrupting our service; (c) using the Service in an unlawful manner; (d) using the Service to menace or harass others; (e) using the Service to obtain unauthorized access to any network; or (f) as otherwise reasonably determined by us.
- f) Device means each independent piece of equipment for which we are providing support Services (excluding Specific Exclusions). For the sake of clarity, each CPU, terminal, printer, switch or router is regarded as a separate device.
- g) Fixed Period means any minimum period for which you agree to receive a Service, where set out in the Accepted Proposal for that Service.
- h) Force Majeure Event means any of the following:
  - i. an act of God;
  - ii. war, terrorism, riot, insurrection;
  - iii. hacking, vandalism, sabotage, or industrial espionage;
  - iv. strike, lockout, ban, limitation of work or other industrial disturbance; or
  - v. law, rule or regulation of any government or governmental agency, and executive or administrative order or act of general or particular application,which is
  - vi. unforeseen by the affected party;
  - vii. is beyond the control of the affected party; and
  - viii. occurs without the fault or negligence of the affected party
- i) Intellectual Property means all intellectual property rights including copyright, trade mark, design, patent, semi-conductor and circuit layout rights.
- j) Minimum Requirements means the minimum requirements that the Supported Equipment must meet in order to receive the Services, as set out in clause 6 or as updated by us and notified to you from time to time.
- k) Monthly Fee means the monthly fee set out in the Accepted Proposal for each Service, as amended, adjusted or indexed from time to time under this agreement.
- l) Monthly Subscription Invoice means a consolidated invoice which we issue to you for all fees across all applicable Services contemplated by this agreement.
- m) Order Porter means our secure online facility for viewing, amending and accepting proposals.
- n) Personal Information means personal information about individuals, as defined under Privacy Laws.
- o) Privacy Laws mean privacy related legislation in force in Queensland, including the *Privacy Act 1988* (Cth), and the *Information Privacy Act 2009* (Qld).
- p) Rental Equipment means Service Equipment expressed as such in an Accepted Proposal, that is provided for your direct use and handling.
- q) Schedule means any or all of the documents which we send to you that are designated as a schedule to these terms and conditions.
- r) Services means services we provide to you as set out in an Accepted Proposal accepted by you, and as amended or adjusted from time to time under this agreement.
- s) Server means a physical or virtual computer running a server operating system that performs a server function.
- t) Service Adjustments means any change in quantity or service level to any of the Services supplied under this agreement.
- u) Service Desk means our technical support facility, which underpins all other Services.
- v) Service Equipment means any equipment, facility or associated software relating to a Service which is owned by us or any of our third party upstream suppliers, which we have provided to you in association with that Service, and includes Rental Equipment where applicable.
- w) Service Level Targets mean the targets that our Service Desk will endeavor to achieve in how quickly we respond to and resolve in scope incidents and service requests against the priority of tickets as set out in the Schedule.

- x) Site means the geographical location at which your on-premise computer network is, or from which your users are operating.
- y) Specific Exclusions in relation to each Service, means any server or device which you have requested to be excluded from that Service, as set out in the relevant Accepted Proposal and as amended from time to time.
- z) Supported Equipment means your equipment at your Site, in relation to which we are providing Services.
- aa) Telecommunications Act means the *Telecommunications Act 1997* (Cth) and its regulations.
- bb) Terms of Service means these terms, including any Schedules.
- cc) Transition Out Services means services we may provide at your request under clause 10.3.
- dd) User means your staff member or contractor, identified by a user account in your Microsoft Active Directory, Microsoft Exchange Server or any other user administrative system at each Site or any other user of tablet or smartphone devices.
- ee) Vendor-supported means:
  - i. For a physical server, that the server is under vendor on-site warranty;
  - ii. For any other device, that the device is under vendor warranty or vendor maintenance agreement;
  - iii. For software, that where available, you have access to vendor support and are entitled to receive upgrades, patches, service packs, and updates as they are released.

## 2. TERM

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### 2.1. Commencement

This agreement commences from the earliest of the day on which you:

- a) accept your first proposal under clause 2.2; or
- b) accept any Services.

### 2.2. Ordering Services

- a) This agreement contains general terms governing our relationship with you, in relation to any Services.
- b) If you request Services from us, we will email a proposal to your nominated email address. The emailed proposal gives you access to our Order Porter, where you can make amendments to the proposal, and accept it once satisfactory to you. By accepting the proposal online, you accept any terms contained in that proposal, in addition to and subject to this agreement.

- c) Upon your acceptance of the proposal, the proposal becomes an Accepted Proposal which is binding upon the parties and constitutes part of this agreement.
- d) The expiry of Fixed Period of any Service, or the variation or termination of any particular Service does not automatically affect the validity of this agreement or any other Service under a separate Accepted Proposal.

## 3. SERVICES

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### 3.1. Services

We will provide each Service in accordance with its corresponding Accepted Proposal, any relevant Schedule and these Terms of Service.

### 3.2. Hours of operation

Our personnel are available from 8.00 am to 5.30 pm Monday to Friday Brisbane time (excluding gazetted national public holidays). Services requiring personnel involvement will be carried out during these hours.

### 3.3. Service Level Targets

- a) Service Level Targets shall apply to Service Desk services, subject to the provisions of this agreement.
- b) While we make all reasonable efforts to meet Service Level Targets, the delivery of the Services is affected by complex factors. Failure to meet a Service Level Target does not of itself constitute a material breach of contract.
- c) You acknowledge that we may at any time amend the Service Level Targets, and such amendment, cancellation and/or replacement will take effect within seven (7) business days from the date that it is notified to you in writing.

### 3.4. Performance ethic

We will at all times:

- a) act diligently, ethically, soberly and honestly;
- b) comply with all relevant laws including Privacy Laws;
- c) maintain prudent insurance policies including public liability insurance of not less than \$5,000,000; and
- d) observe your reasonable directions in relation to security or use of any facilities or equipment.

## 4. SERVICE EQUIPMENT

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### 4.1. Service Equipment

In respect of any Service Equipment provided to you as part of a Service:

- a) the Service Equipment remains the property of us or our supplier. You must not remove or disfigure any identifying marks or labels attached to the Service Equipment;
  - b) you will allow us to and, where applicable, you will ensure that the relevant land owner or landlord allows us to, access such premises where the Service Equipment is located for the purposes of this clause;
  - c) we may remove the Service Equipment upon reasonable notice to you;
  - d) you must keep the Service Equipment in a reasonably safe and secure manner, and you will not part with possession of the Service Equipment, except as directed by us;
  - e) you must provide us and our nominated representatives with access to your premises upon reasonable notice to install, inspect, test, modify, maintain, repair, change or recover the Service Equipment;
  - f) you must ensure that the Service Equipment is not maintained, tampered or interfered with by any person, except us or our nominated representative;
  - g) you must ensure that the Service Equipment, excluding Rental Equipment, is not handled or used by any person, except us or our nominated representative;
  - h) you must keep the Service Equipment free and clear of any liens or encumbrances;
  - i) if requested by us, you must insure the Service Equipment for an amount and on terms reasonably required by us;
  - j) you must return the Service Equipment to us within fourteen (14) days of the expiry or termination of the corresponding Service. If you do not do so, you must immediately pay us the full retail price of the Service Equipment (including the cost of acquiring or renewing any necessary software licences).
- d) We will track any metrics relevant to each Service, including but not limited to the number of Devices on your network, storage volume used, processor counts, memory counts or active directory users. Your Monthly Fee for the following calendar month may be automatically adjusted for any changes in the such metrics, in accordance with the applicable Accepted Proposal.
  - e) Despite any Service Adjustments or other adjustments or changes to the Services from time to time, your minimum Monthly Subscription Invoice, excluding usage or excess data charges, will be the higher of:
    - i. fifty per cent (50%) of the total Monthly Fee across all Services as at the commencement of this agreement; or
    - ii. \$300 ex GST per month.

## 5.2. Monthly Subscription Invoice and Payments

- a) We will invoice you on or before the first working day of each calendar month and include in a single Monthly Subscription Invoice your Monthly Fees, and where applicable, usage or excess data charges and any other fees and charges related to all Services under this agreement.
- b) Monthly Fees for all Services under this agreement including any Service Adjustments or other changes implemented, are invoiced in advance and included on a single Monthly Subscription Invoice.
- c) Any usage or excess data charges will be invoiced in arrears and included in the Monthly Subscription Invoice issued for the following month.
- d) Setup fees (if applicable) are invoiced in advance and must be paid prior to our undertaking setup work, unless otherwise agreed.
- e) You will be invoiced additional linkage charges in the event that new infrastructure is required to deliver any Services for connectivity and included in the Monthly Subscription Invoice.
- f) We are entitled to invoice you for charges which have been previously uninvoiced or charges which were understated in a previous invoice, provided that the charges to be retrospectively invoiced are reasonably substantiated by us. Such charges will be included in the Monthly Subscription Invoice.
- g) The Monthly Subscription Invoice is due and payable on the first working day of each calendar month, by automatic credit card or electronic transfer from your nominated bank account.
- h) We may issue a separate interim tax invoice during the calendar month:
  - i. if you have requested services not included in any of the specific Services; or

## 5. YOUR RIGHTS AND OBLIGATIONS

### 5.1. Service Adjustments

- a) The Services have been designed to give you maximum flexibility and control.
- b) You may request a Service Adjustment to any of the Services included in this agreement at any time by written notice to us. On receipt of your request for such adjustment we will notify you in writing as to:
  - i. whether we agree to implement the Service Adjustment that you have requested; and
  - ii. the revised Monthly Fee (if applicable); and
  - iii. the date on which the Service Adjustment will take effect (normally effect in the calendar month following the date of approval).
- c) Service Adjustment on any Services that are supplied by our third party supplier will be subject to the terms and approval of the third party supplier.

- ii. if you have requested services that attract a surcharge, such as after hours services or onsite visits, or onsite visits other than planned services visits included in your Services; or
- iii. if you require us to travel to a site more than 15 kms from our offices, for reasonable travel time; or
- iv. if you require us to travel to a site more than 100 kms from our offices, for reasonable expenses, including travel time, travelling expenses, lodging and meals, provided that these expenses are pre-approved by you; and

Each tax invoice is payable 7 days after the date of the tax invoice, by automatic credit card or electronic transfer from your nominated bank account.

- i) If our upstream supplier providing third party software or services increases the price at which it supplies any necessary or relevant goods or services to us as a component of our supply of the Services to you, we may notify you in writing and alter on the next Monthly Subscription Invoice any applicable charges to reflect such increase.
- j) If you reasonably believe that an invoice contains an error and you wish to dispute an invoice you must:
  - i. notify us within 7 days of the date of the invoice; and
  - ii. pay all undisputed fees on the invoice; and
  - iii. provide us with detailed information about any disputed fees.
- k) We will not suspend or terminate any service for non-payment of disputed fees while the dispute is being investigated by us.

### 5.3. Fee increases

- a) For the duration of this agreement, upon each anniversary of the date of the first Monthly Subscription Invoice, all Monthly Fees are automatically indexed across all Services, by the increase in CPI plus 2%.
- b) We may change any surcharges in relation to Services by written notice at the beginning of each financial year.

### 5.4. Default in payment

If you fail to pay any invoice by the due date, then without prejudice to our other rights or remedies, but subject to clause 5.2(j):

- a) until we have been paid in full for the outstanding amount (including any accrued interest), we reserve the right:
  - i. to charge you for interest on the overdue amount at an annual rate of 15%, accruing daily from fifteen (15) days after the due date of the relevant invoice; and

- ii. to immediately suspend any or all Services, if you have failed to pay despite receiving seven (7) days' written notice of non payment; and
- b) you are liable by way of liquidated damages for all amounts payable under clause 5.4(a) plus our costs of debt collection and enforcement, including legal fees on a solicitor and own client basis.
- c) We reserve the right to charge you a fee for reconnection or re-instatement of any Services suspended under this clause.

### 5.5. Use of the Services

- a) You must ensure that you (and anyone whom you allow to access the Services):
  - i. do not cause any harm or damage to our computer system or network or those of our suppliers;
  - ii. do not commit, cause or allow any breach (or do anything which might put us in breach) of any law, regulation, government direction;
  - iii. do not commit Defined Abuse;
  - iv. notify us immediately of any breach (suspected or otherwise) of the Service, or any password or login;
  - v. comply with our Acceptable Use Policy (AUP).
- b) You acknowledge and agree that:
  - i. faults related to the provision of the Service may occur;
  - ii. we do not warrant that the Service will be uninterrupted or error free;
  - iii. we shall not be liable or responsible for faults or damage outside our control;
  - iv. any performance or fault restoration targets which we provide are estimates only and may be subject to the performance of third parties.
- c) You must ensure that all data loaded onto our Virtual Server or transmitted via our Virtual Server:
  - i. is free from computer viruses, Trojans, worms, hacking tools and other harmful components;
  - ii. does not infringe the intellectual property rights of any person;
  - iii. does not defame any person; and
  - iv. does not breach any law (including without limitation any law relating to pornographic, obscene or offensive material, vilification, unsolicited electronic messaging, privacy, consumer protection, confidential information and public safety).
- d) You agree if any third party software is used on a sublicense basis by us or our third party upstream supplier in providing our service to you, that you will:

- i. comply with all appropriate third party software licensing terms and conditions, for software licences that have been supplied by us or our third party upstream supplier;
- ii. not make any copies of the software or any printed materials accompanying the third party software;
- iii. not reverse engineer, decompile, or disassemble the third party software;
- iv. not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the third party software to any other party, and you will not permit any other party to have access to and/or use the functionality of this third party software;
- v. not use the mobile device management software in circumstances where product failure could lead to injury to persons, loss of life or severe property or environmental damage, including without limitation, any application involving life support systems or the life support market, medical applications, critical care applications, connections to implanted medical devices, commercial transportation or aviation applications, or nuclear facilities or systems; and
- vi. use your own APNs certificate, if using the mobile device management software to manage Devices running on iOS.

## 5.6. Your obligations

You agree to:

- a) respond in a timely manner if we bring an issue to your attention in relation to your hardware, software or usage;
- b) take reasonable steps to prevent unauthorised access to our computer system or network or those of our suppliers;
- c) keep us informed of any information relevant to the Services, including but not limited to details of any changes to key personnel, access codes or any device or software or any other information on the Accepted Proposal or changes which are likely to affect this agreement or any Services;
- d) provide us with all relevant administrator level login details and passwords, and remote access to your network so that we can carry out the Services, and keep us informed of anyone else who has such access from time to time;
- e) not make any changes to the Supported Equipment that require administrator level access, unless the changes are carried out by a competent and suitably qualified person who confirms the changes with us beforehand;
- f) provide upon request copies of all necessary software licences, licence keys and original media, to enable us to carry out the Services;

- g) grant us a licence to enter your Site and provide a safe place to work as necessary to carry out the Services; and
- h) use the Supported Equipment only for lawful purposes, and take reasonable security precautions to secure the Supported Equipment from unauthorised access or use.

## 5.7. Nominated Representative

- a) You will appoint and notify us in writing of your nominated representative and contact details under this agreement. You authorise your nominated representative to act on your behalf in relation to:
  - i. the day-to-day administration of this agreement; and
  - ii. giving instructions regarding operational aspects of each Service.
- b) You will notify us immediately of any intended change of your nominated representative or of any change in contact details of your nominated representative.
- c) You accept responsibility for the acts, omissions and defaults of your nominated representative. Any direction, instruction, notice, approval or other communication to or from your nominated representative within the limits of the authority set out in clause 5.7(a) will be deemed to have been made by or given to you.

## 6. MINIMUM REQUIREMENTS

### 6.1. Supported Equipment

Unless otherwise agreed, all servers and devices at the Site other than Specific Exclusions, must be Supported Equipment. Any server or device which does not meet the minimum requirements will be treated as Specific Exclusions.

### 6.2. Minimum Requirements for Supported Equipment

The Supported Equipment must meet the following minimum requirements:

- a) All Servers, desktop PCs, notebooks/laptops, tablets and mobile devices must be running suitable vendor-supported operating systems, and have all of the latest patches and updates installed.
- b) All network software installed on any device must be genuine, licensed and vendor-supported.
- c) All devices must be vendor-supported.
- d) The environment must have a currently licensed, up-to-date and vendor-supported server-based antivirus solution protecting all servers, desktops, notebooks/laptops, and email.
- e) The environment must have a currently licensed, vendor-supported server-based backup solution that can be monitored, and send notifications on job failures and successes.

- f) The environment must have a currently licensed, vendor-supported hardware or software firewall between the internal network and the internet.
- g) All wireless data traffic in the environment must be securely encrypted.
- h) There must be internet access with an outside static IP address assigned to a network device, allowing RDP or VPN access.

## 7. OUR RIGHTS

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### 7.1. Supported Equipment

- a) We reserve the right to carry out an audit of the Supported Equipment prior to providing a Service, to confirm that it meets the Minimum Requirements.
- b) For a server to be included in the Services, the server must be identified by the equipment serial number, server name and/or a unique item number issued by us.
- c) We reserve the right to check any server or device you elect to add as Supported Equipment after we have completed our audit, to confirm that it meets the Minimum Requirements.

### 7.2. Changes to Services

Technology and business environments are constantly evolving and we may at our sole discretion make adjustments to the Services to ensure you continue to receive the best possible results. However, we will ensure that the Services as amended are of an equivalent or better standard, and give you reasonable notice of any changes.

### 7.3. Service limitations

We will use our best efforts to resolve any issues you may have with the Services we provide.

However:

- a) It may not be possible to detect all technical problems in advance, and we do not guarantee that there will be no downtime.
- b) We provide no services in relation to any Specific Exclusions set out in any Accepted Proposal.
- c) We do not provide any warranties or support for hardware malfunction for Supported Equipment. It is your responsibility to keep your hardware in good condition, but we may upon request supply or install replacement hardware at our then current rates.
- d) We do not provide end user technical support for line of business software or specialist applications. Such issues should be raised with the relevant software vendor.
- e) We do not negotiate or renew software licences on your behalf. You are responsible for keeping records of software

licences, licence keys and original media required for installing the software.

- f) Services do not include staff training, and we are unable to instruct users on how to use hardware or software under this agreement. However, we may provide such services by separate agreement with you.
- g) We are not responsible for any delay, action or inaction of any third parties such as internet service providers, telecommunications companies or other service providers.
- h) It is your responsibility to implement and enforce suitable user policies to govern the use and security of your network. If you require services because of damage to the Supported Equipment caused by your employees, we may deem these to be outside the scope of the Services.
- i) If you require any technical or support work outside the scope of any Service, we may upon request provide such services at our then current rates.

### 7.4. Services from third party upstream suppliers

- a) We may at any time impose on you any term, condition, warranty, limitation or exclusion which our upstream supplier imposes on us.
- b) We may suspend or end a Service without incurring any liability to you if we can no longer acquire any necessary or relevant goods or services from an upstream supplier due to circumstances beyond our reasonable control.

## 8. INDEMNIFICATION AND LIMITATION OF LIABILITY

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### 8.1. Indemnity

Each party will indemnify, defend and hold harmless the other party and its employees, officers, agents, contractors and directors against any and all losses, costs, expenses and damages, including but not limited to reasonable legal fees, resulting from its own negligence, or reckless or intentional misconduct, or failure to perform its obligations and responsibilities under this agreement.

### 8.2. Release

You release and indemnify us, our officers, employees, contractors and third party upstream suppliers against any action, proceeding, claim, demand or prosecution arising from or in connection with:

- a) any acts or omissions of anyone whom you allow to access the Supported Equipment or any Services from time to time, whether deliberately or otherwise; or
- b) any loss or damage to persons or property belonging to us or anyone else, caused by the usage of Supported Equipment or any Services, by you or anyone whom you allowed to access the Supported Equipment or any Services; or
- c) your breach of any law or infringement of any third party rights including intellectual property rights; or

- d) your breach of our AUP; or
- e) if your instructions to us cause us to be in breach of any law or infringement of any third party rights including intellectual property rights; or
- f) our reasonable actions in denying anyone access to the Supported Equipment or any Services for security reasons or non-payment; or
- g) our refusal to accept any equipment that we consider does not meet the Minimum Requirements.

### 8.3. Liability limitations and exclusions

- a) We do not warrant that Services will be uninterrupted or error free.
- b) All terms, conditions or warranties which may be implied into this agreement, statutory or otherwise, relating to the provision by us of the Services are excluded to the fullest extent permitted by law.
- c) Our liability under this agreement will be reduced to the extent contributed to or caused by your negligent acts or omissions, or your breach of the terms of this agreement.
- d) To the fullest extent allowable at law, our liability under this agreement for any defect in the Services or other services contemplated by this agreement, is limited to (at our election) provision of further services at no charge to rectify any defect, payment of the cost of rectifying any defect, or a refund of the amount you paid us for those services.
- e) Our total liability to you in connection with this agreement, whether based on an action or claim in contract, equity, negligence, intended conduct, tort or otherwise, is limited to six (6) months the Monthly Fee for the specific Services in dispute.
- f) We exclude all liability for:
  - i. the acts or omissions of any third party;
  - ii. faults outside our control including but not limited to failure of your hardware or software or any third party software supplied by our upstream supplier;
  - iii. faults or defects in Services caused or contributed to by your own acts or omissions;
  - iv. loss or corruption of data, except for the direct costs of repairing or replacing lost or corrupted data, where the loss or corruption of data is directly attributable to our breach of contract or negligent act or omission;
  - v. indirect, special, economic or consequential loss including loss of revenue, profits, goodwill, bargain or opportunities you suffer in any way, even if we knew or should have known about the possibility of such loss.

## 9. SUSPENSION AND TERMINATION

### 9.1. Termination

This clause 9 is in addition to the parties' rights to termination under any audit provisions.

### 9.2. Suspension or termination for Force Majeure

- a) Either party may suspend the Services, to the extent and for the duration that a party is affected by a Force Majeure Event; and
- b) either party may end this agreement if a Force Majeure Event continues for more than 30 days,

however, nothing in this clause excuses the payment of monies as and when due.

### 9.3. Suspension or termination for default

- a) We may suspend any or all Services, or end this agreement at any time without prior notice if:
  - i. You fail to accept our reasonable recommendations in relation to your network or staff training despite receiving 7 days' written notice; or
  - ii. You fail to ensure that the Supported Equipment continues to meet the Minimum Requirements despite receiving 7 days' written notice of default; or
  - iii. We have reason to suspect illegal activity is taking place on your network; or
  - iv. You fail to remedy a material breach despite receiving 14 days' written notice of default.
- b) If we suspend any or all Services under clause 9.3.a), all Monthly Fees for the relevant suspended Services will continue to be invoiced and become due for payment in accordance with clause 5.2 until such Services are terminated.

### 9.4. Other termination for default

- a) You may end this agreement if we fail to remedy a material breach despite receiving 14 days' written notice of default.
- b) Either party may immediately end this agreement by written notice if the other party is wound up or placed under official management, or stops trading or commits an act of bankruptcy, or judgment is entered against the other party for more than \$20,000.00, which remains unsatisfied or unappealed for more than 21 days.

### 9.5. Termination of agreement without default

- a) Either party may end this agreement by providing at least six months' written notice to the other party at any time, subject to clause 9.5(b).
- b) If either party gives notice under clause 9.5(a), this agreement ends upon the later of:



- i. If you have a Service to which a Fixed Period applies, the date on which that Fixed Period expires, or if you have more than one Service to which a Fixed Period applies, then the date on which every Fixed Period has expired; or
- ii. the date of termination set out in the termination notice.

## 10. TERMINATION CONSEQUENCES

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### 10.1. Consequences of termination of this agreement

If this agreement is terminated for any reason, then:

- a) all Services automatically end on the date of termination;
- b) you must pay all fees for all Services up to the date of termination; and
- c) in addition to any other rights we may have:
  - i. we may issue an invoice for other work not previously invoiced, whether for Services or any other services or charges contemplated by this agreement; and
  - ii. your rights to use any software belonging or licensed to us automatically ceases and you grant us an irrevocable right to uninstall and remove such software either by remote access or by entering your premises.

### 10.2. Return of data

You retain full ownership of your data at all times. If this agreement is terminated for any reason, we will at no additional cost, within thirty (30) days after the date of termination:

- a) provide you with a copy of any of your data which is within our possession or reasonable control, on an external hard disk provided by you; or
- b) otherwise take all reasonable steps to procure access for you to the facilities where your data is held,

and after complying with sub-clauses (a) and (b), we may permanently delete all copies of your data in our possession or control.

### 10.3. Transitioning out upon termination or cancellation of a Service

- a) Upon your request, we will, provided you are not in default of this agreement:
  - i. provide you or your nominee with any and all support, cooperation, assistance, advice, explanations and information reasonably requested by you;
  - ii. do all acts and things and execute all deeds, documents and instruments as are necessary; and
  - iii. comply with your reasonable directions,

to facilitate the continuity of any Services required to be provided under this agreement or to assist in the replacement of

the Services or some part or parts of the Services (including the orderly supply, installation, configuration and transition to new services or a successor provider of services)

- b) Without limiting the generality of clause 10.3(a), Transition Out Services may include any or all of the following:
  - i. developing or modifying, together with you, a plan for the continuity and orderly transition of responsibility for the Services to you or another service provider;
  - ii. continuing to perform, for a reasonable period (as determined by you) of up to 3 months following the expiration or termination of this agreement, any or all of the Services then being performed by us;
  - iii. providing all cooperation, assistance, advice, access to equipment and systems, explanations and information reasonably necessary in order to facilitate the efficient continuity and transition of the Services; and
  - iv. in consultation with you, providing all reasonable data migration assistance, including the downloading or delivery of databases to the new service provider or you and the reloading of those databases, or provision of your data in a form other than as set out under clause 10.2
- c) The terms of this agreement apply to all Transition Out Services, whether undertaken before or after termination of this agreement. Any and all work that we carried out under clause 10.3(a) and 10.3(b) are out of scope of the Services, and will be invoiced on an hourly basis in accordance with our then current Professional Services Rates. We reserve the right to require upfront payment for any portion of the Transition Out Services.

## 11. NON-SOLICITATION

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- a) During the term of this agreement and for 6 months following termination of this agreement neither party may hire any of the other party's employees or contractors, either directly or through an intermediary entity or entities.
- b) If either party breaches this clause, the party in breach must pay to the other party liquidated damages equal to 30 per cent of the transferring employee or contractor's new annual remuneration package.

## 12. GENERAL

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### 12.1. Mediation

If either party gives the other party a written notice of dispute, the parties must within 14 days refer the dispute to an independent mediator nominated by the president of the Queensland Law Society. The parties must equally share the costs of the mediation. Neither party may commence court proceedings (except for urgent interlocutory applications) unless

the dispute remains unresolved more than 28 days after the date of the notice of dispute.

#### 12.2. Sub-contracting and assignment

- a) You may not assign any of your rights or obligations under this agreement without our written approval, which approval must not be unreasonably withheld.
- b) We may assign or novate our rights and obligations under this agreement upon 7 days' written notice. We may also at any time appoint agents, employees or third party sub-contractors to fulfil any part of our obligations under this agreement without separate notice to you, and warrant that any such employees, agents or sub-contractors are suitably qualified for such work .

#### 12.3. Confidentiality

- a) Each party acknowledges that in the course of performing its obligations under this agreement it will receive Confidential Information which is proprietary and confidential to the other party.
- b) Each party agrees not to use or disclose Confidential Information of the other party except to its officers, employees or contractors, and then only to the extent necessary to carry out its obligations under this agreement, and must ensure that every party to whom it gives access to the Confidential Information complies with this clause.
- c) Despite clause 12.3 (a) and (b) above, either party may use or disclose Confidential Information only to the extent necessary to:
  - i. Comply with any law, binding directive of a regulator or a court order;
  - ii. Comply with the listing rules of any stock exchange on which its securities are listed; or
  - iii. Obtain professional advice in relation to matters arising under or in connection with this document where the advisors agree to be bound by the same obligation of confidentiality.
- d) Except where required by law or the terms of this agreement to retain information or data, each party must within 30 days of termination of this agreement, delete or destroy all originals, copies, extracts and summaries of the other party's Confidential Information in their possession or reasonable control and not retain any copies of the Confidential Information either in hard copy or electronic form.

#### 12.4. Privacy

- a) You agree that we may collect, use and disclose your Personal Information to enable us to provide Services to you. We will only use your Personal Information in accordance with this agreement and Privacy Laws.
- b) You acknowledge and agree that we may disclose information about you, including Personal Information, to

credit reporting agencies in order to obtain information about your credit rating.

- c) We will
  - i. deal with Personal Information we receive from you in accordance with Privacy Laws;
  - ii. take reasonable steps to ensure that Personal Information held by us is protected against misuse, loss, unauthorised access, unauthorised modification and unauthorised disclosure;
  - iii. ensure that only authorised personnel have access to Personal Information and that personnel will only be authorised for access on a "need to know basis";
  - iv. on your request arrange for authorised personnel that have access to Personal Information to execute a document in a form reasonably required by you and agreed by us to protect the Personnel Information;
  - v. ensure that any of your Personal Information which we store in the normal course of providing the Services is maintained within, and not transferred or transmitted outside of Australia, unless otherwise disclosed;
  - vi. use Personal Information only for the purpose of this agreement, or record keeping or archival purposes required by law;
  - vii. not disclose Personal Information for sale or profit or any other benefit; and
  - viii. take reasonable steps to comply with your privacy policy (as notified to us) and assist you to comply with your obligations under the Privacy Laws and your privacy policy.
- d) You acknowledge and agree that if we supply a carriage service, we, as well as any of our upstream suppliers whose network is used in delivery of the service, may be required by law to monitor your usage and interrupt communications sent over the service.
- e) If you provide us with credit card details for the purpose of paying invoices for Services supplied, you agree that:
  - i. We may disclose your credit card details to, and obtain information from, any financial institution or credit card issuer to verify the credit card details.
  - ii. We may take steps to verify that you hold sufficient credit on your credit card to meet the likely charges.

#### 12.5. Ownership of Intellectual Property

- a) Each party retains ownership of its own intellectual property. The parties agree that except as set out in this agreement or any Accepted Proposal, no licence under patent, copyright or other intellectual property rights is granted by implication or otherwise to the other party.
- b) Where we install our software on your equipment in order to provide Services, we retain ownership of all intellectual

property rights in relation to the software, but grant you a licence to use the software while the corresponding Services are continuing. We warrant that we own all the rights to our software or have the right to grant you the licence under this clause.

- c) Unless otherwise set out in the relevant Accepted Proposal, we retain ownership of all intellectual property in any material created as part of the Services.
- d) You warrant that where you deliver to us materials (whether in electronic or physical form) in which intellectual property rights subsist, that you are properly authorised to deliver such materials to us for the purposes of this agreement.
- e) We indemnify you from and against any loss or liability you incur if we breach our warranty in clause 12.5(b).

#### 12.6. Partnerships

Where you are made up of a partnership:

- a) you agree that all the partners are jointly and severally liable for the performance of your obligations under this agreement and that you are authorised to sign on behalf of every partner;
- b) you also agree that reconstitution of the partnership, the retirement or resignation of a partner or the appointment of a new partner will not terminate this agreement;
- c) you must notify us in writing within 14 business days, of any change in partnership details.

#### 12.7. Relationship between the parties

Nothing in this agreement constitutes a partnership or contract of employment. It is the express intention of the parties to deny any such relationships.

#### 12.8. Jurisdiction

This agreement is governed by the laws of Queensland and the parties submit to the courts of that jurisdiction.

#### 12.9. Invalid provisions

If any provision of this agreement is ruled by a court to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision or part provision of this agreement.

#### 12.10. Waiver

Any delay or failure to enforce any rights in relation to a breach by the other party will not be construed as a waiver of those rights.

#### 12.11. Entire Agreement

The relevant Accepted Proposals and these Terms of Service (including any Schedules), as amended from time to time in accordance with these Terms of Service, contain the entire agreement between the parties in relation to the Services. However in the event of any inconsistency the documents will take precedence in the following order:

- a) each relevant Accepted Proposal;
- b) any Schedule; and then
- c) these Terms of Service.

#### 12.12. Varying the Agreement

Any variation or amendment to this agreement (other than adjustments to Services by notice between the parties pursuant to the terms of this agreement) must be in writing and accepted by all parties.

#### 12.13. Force Majeure

If a party to this agreement is affected, or likely to be affected, by a Force Majeure Event that prevents or significantly disrupts performance of a party's obligations under this agreement:

- a) that party must immediately give the other prompt notice of that fact including:
  - i. full particulars of the Force Majeure Event;
  - ii. an estimate of its likely duration;
  - iii. the obligations affected by it and the extent of its effect on those obligations; and
  - iv. the steps taken to rectify it; and
- b) A party claiming a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a party to settle any industrial dispute in any way it does not want to.

#### 12.14. Survival of clauses

Where applicable, clauses 4, 8, 10, 11 and 12 shall survive termination of this agreement for any reason.

#### 12.15. GST

All monetary amounts are expressed in Australian dollars and are exclusive of GST. Where relevant, we will issue a tax invoice itemising GST in addition to and payable with the monetary amounts applicable to each relevant Service.

# Sentrian Services Schedule A

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## 1. SERVICE LEVEL TARGETS FOR SERVICE DESK SUPPORT

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### 1.1. Scope

This Schedule sets out the Service Level Targets for our Service Desk.

### 1.2. Support Requests Classification and Ticketing System

ITIL principles drive our Service Desk with all incidents and service requests classified as they are received and responded to within agreed Service Level Target limits. All incidents and service requests are recorded as a ticket in our system which we will endeavour to respond to within the target times of our Service Level Targets.

### 1.3. Service Level Targets

<b>Service Level Targets</b>	The Performance of Service Desk support is measured by how quickly we respond to and resolve in scope incidents and service requests against the priority of tickets.	
<b>Response &amp; Resolution Times</b>	There are two metrics for measuring how quickly we respond to and resolve tickets :	
	Response Time	This is the elapsed time from the time the ticket is opened to the time we start to work on it.
	Resolution Time	This is the elapsed time from the time the ticket is opened to the time the ticket is completed.
	All elapsed times are measured according to our standard business hours, 8:00am-5:30pm, 5 days per week, excluding national public holidays. They also allow for waiting time when, for instance, the resolution of the ticket is waiting on third parties, parts or your staff.	
<b>Ticket Priority</b>	Priorities are based on the urgency (severity) of a service ticket and its impact on your business operations.	
	P1 - Critical	The request affects all or most users. It interferes with core business functions and contains the risk of loss of mission critical data.
	P2 - Major	A substantial number of users are affected. The issue interferes with important but non core business functions or activities that do not affect the entire company.
	P3 - High	A limited number of users are affected. The issue interferes with standard applications and business functions but doesn't limit or endanger the core business processes.
	P4 – Normal	One or a few users are affected. The issue interferes with standard, non business critical applications and supporting business processes. Normal work can continue until resolution of the issue.
	P5 – No Urgency	No or a limited number of users are affected. Impact and urgency of the request indicates no bearing on the day to day activities of the business.

SERVICE LEVEL TARGETS FOR SUPPORT				
PRIORITY	RESPONSE TIME		RESOLUTION TIME	
	TIME	TARGET %	TIME	TARGET %
P1 – CRITICAL	15 minutes	100%	4 hours	90%
P2 - MAJOR	30 minutes	85%	8 hours	80%
P3 – HIGH	1 hour	85%	16 hours	80%
P4 – NORMAL	2 hours	85%	24 hours	80%
P5 – NO URGENCY	1 day	85%	10 days	80%

#### 1.4. Updates to Service Level Targets

We may modify this Service Level Targets from time to time. We will notify you in writing at least ten (10) business days before any modifications become effective.