



Accucom Systems Integration Pty Ltd
Unit 25, 11 Brookhollow Ave
Norwest Business Park
Baulkham Hills NSW 2153
Tel. 02 8825 5555 www.accucom.com.au

Master Services Agreement

Managed Services, Internet and As a Service

for

Customer Name

Attention:	xx
Position	xx
Published Date:	Tuesday, 24 March 2026
Version Number:	1.0

Services Agreement

DATE OF AGREEMENT

This Services Agreement is entered on 15th March 2024.

PARTIES

Accucom Systems Integration ABN 61 091 531 654 of 25/11 Brookhollow Avenue Baulkham Hills ("**Service Provider**")

Customer Name ABN xx of xx ("**Client**")

RECITALS

- A. The Service Provider is a provider of IT services.
- B. The Client wishes the Service Provider to provide, and the Service Provider has agreed to provide, Managed Services, Internet or Cloud Hosting for the Client, on the terms and conditions of this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. Definitions and Interpretation

1.1. Definitions

In this Agreement, the following words have the following meanings, unless expressly agreed otherwise:

Ad Hoc Rates means as specified in Annexure A.

Agreement means this Services Agreement and Schedules 1 to 5 and Annexures A to J

Australian Consumer Law means schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Business Day means Monday – Friday excluding public holidays in New South Wales.

Business Hours means 8:30am – 5:30pm on Business Days.

Client means as set out above on the first page of this Agreement.

Client Data means any data transmitted by the Client into or via the Managed Services.

Client Equipment means any equipment of the Client referred to in the Managed Services Specification.

Client Software means any software of the Client referred to in the Managed Services Specification.

Cloud Hosting Services means as set out in Schedule 3

Commencement Date means as set out in Schedule 1.

Confidential Information means as defined in clause 19.

Configuration Change Notice means as defined in clause 8.1.

Consumption means the amount the Client uses of the Service based on one of multiple UOM's

Data Protection Laws mean the *Privacy Act 1988*, the *Spam Act 2003*, the *Privacy and Personal Information Protection Act 1998*, *Australian Commonwealth Privacy Act 1988* and all other laws, regulations or rulings relating to personal data, data privacy, personal information, data and information protection which apply to the parties in relation to services provided under this Agreement.

Default means the Clients failure to pay the fees for thirty (30) days after the payment was originally due for payment regardless of written notice that the applicable amount is overdue.

Eligible Data Breach has the same meaning given to it in s 26WE(2) of the *Privacy Act 1988* (Cth).

Error means as defined in clause 13.1.

Excluded Event means any of the events referred to in clause 14.1.

Excluded Services means as defined in clause 14.1.

Fees means as set out in the attached Schedules.

Force Majeure Event means war, strike, lockout, natural disaster, flood, earthquake, act of God, pandemic, internet or telecommunication network failures, hacker attacks, denial of service attacks, cyber attack, ransomware attack, viruses or other malicious software attacks or infections or other cyber security issues, power failures, industrial disputes impacting third parties, or other circumstances beyond the reasonable control of the Service Provider.

GST has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Initial Term means as set out in the Schedule.

Insolvency Event means: (a) where the party is an individual, that party commits an act of bankruptcy or is declared bankrupt or insolvent or that party's estate otherwise becomes liable to be dealt with under any law relating to bankruptcy or insolvency; (b) where the party is a company, a resolution is passed or Court order made for the winding up of that party or an administrator is appointed to that party pursuant to any relevant law; (c) a receiver or manager or receiver and manager is appointed to the assets or undertaking of the party or any part thereof; or (d) the party is unable to pay its debts as and when they fall due.

Intellectual Property Rights means all copyright, trademark rights, patent rights, and design rights, whether registered or unregistered, and all other rights to intellectual property as defined under article 2 of the convention establishing the World Intellectual Property Organization, and all rights to enforce any of the foregoing rights.

Internet Services means as set out in Schedule 2

Managed Services means as set out in Schedule 1.

Managed Services Specification means Annexure C through to J.

Non-Excludable Guarantee means a non-excludable guarantee implied by the Australian Consumer Law.

Payment Terms means as set out in Schedule 1.

Personal Data means personal data under any of the Data Protection Laws.

Personal Information has the meaning under relevant Data Protection Laws, including information or an opinion about an identified individual or an individual who is reasonably identifiable whether or not the information is true or recorded in material form.

Service Levels means as set out in Schedule 2.

Services means the Managed Services, Internet, Cloud Hosting and related Support Services.

Service Provider means as set out on the first page of this Agreement.

Support Services means as set out in clause 13.2.

Term means the Initial Term.

Third Party Software means any third-party software described in the Managed Services Specification and any other software installed on the Client Equipment in respect of which the Intellectual Property Rights are not owned by the Service Provider or the Client.

Unit(s) of Measure (UOM(s)) means the billable unit of the Service defined in this agreement or approved quote.

1.2. Interpretation

In this Agreement:

- (a) Headings and underlining are for convenience only and do not affect the construction of this Agreement.
- (b) Currency refers to Australian dollars.
- (c) A reference to a statute or regulation includes amendments thereto.
- (d) A reference to a clause, subclause or paragraph is a reference to a clause, subclause or paragraph of this Agreement.
- (e) A reference to a subclause or paragraph is a reference to the subclause or paragraph in the clause in which the reference is made.
- (f) The recitals are correct and form part of this Agreement.
- (g) A reference to time is to time in New South Wales.
- (h) A reference to a person includes a reference to an individual, a partnership, a company, a joint venture, government body, government department, and any other legal entity.
- (i) The words "includes", "including" and similar expressions are not words of limitation.

2. Preparation for and commencement of Services

2.1. The Client warrants that it is the owner of the Client Equipment and the Client Software and that it is licensed to operate the Third Party Software on the Client Equipment.

2.2. The Client must obtain and maintain all relevant third party consents and authorisations in respect of the Client Equipment, Client Software and Third Party Software as necessary for the Service Provider to provide the Services.

2.3. The Client must provide the Service Provider with all usernames, passwords, and other credentials in the Client's possession or control for the Client Equipment, Client Software and Third Party Software, so that the Service Provider can obtain and maintain unhindered access to, maintain and configure the Client Equipment, Client Software and Third Party Software as required by the Service Provider in order for it to provide the Services under this Agreement.

2.4. The terms and conditions of this Agreement are negotiable, and the Client warrants that it has had a reasonable opportunity to seek independent legal advice, make inquiries of the Service Provider, and assess its ability to enter into and perform the obligations under this Agreement. The Client warrants

that it has exercised its own judgment in entering into this Agreement and has not relied on any warranty or representation made by the Service Provider, its officers, employees, or agents, except as explicitly stated in this Agreement.

3. Ordering

3.1. Electronic transactions

(a) The parties may conduct business electronically. Electronic transactions include electronic consent to contracts, issuing legal quotes, placing or accepting orders through electronic means, exchanging and/or accepting Solution Materials electronically, and content posted on the Service Provider's websites and linked in other Agreement documents.

3.2. Ordering

(a) Depending on the type of Services, the Client orders Services from the Service Provider by issuing a purchase order referencing the legal quote, by clicking to place the order through a portal, or through such other means acceptable to the Service Provider.

3.3. Purchase orders

(a) (a) If the Client does not issue purchase orders as a matter of business practice, the Client represents and warrants that its purchase of the Services authorises the Service Provider to commence providing the Services. The Client agrees to pay for the Services without the necessity of a purchase order and waives any right to dispute payment on the grounds that no purchase order was issued.

(b) (b) If the Client uses purchase orders, the Client represents and warrants that any purchase order issued to the Service Provider is authorised and binding. Purchase orders shall include: (i) a reference to the Service Provider's offer, (ii) a description of the Services, (iii) the estimated contract value, and (iv) the estimated expenses (exclusive of taxes). The absence of any of the above information shall not relieve the Client of its obligation to pay for the Services rendered. For clarity, any preprinted terms or conditions on the Client's purchase order are void and shall not apply.

(c) (c) The Client shall ensure that sufficient funds are allocated in the purchase order to cover estimated usage for the upcoming period. If the current purchase order's funds are insufficient to cover estimated usage for the next three months, the Client shall promptly provide the Service Provider with an updated or new purchase order. The absence of an updated or new purchase order shall not affect the Client's obligation to pay all applicable fees for the Services provided.

4. Pricing

4.1. Subscription rate

(a) The Solution Material or legal quote will contain the applicable rate for any Commitment.

4.2. Pay per use rate

(a) The Solution Material or legal quote will contain the applicable UOM rate for any Consumption subject to Pay per use. This UOM rate will apply as long as the Agreement is in effect. Alternatively, the Solution Material or legal quote will identify the source of the UOM rate for any Consumption subject to Pay per use in the given Billing period (e.g., a price list). If the UOM rate is not fixed in the Solution Material or legal quote, the UOM rate may only be changed by the Service Provider with prior notice.

4.3. Rate bands

(a) The Solution Material or legal quote for the Services may for UOM rate bands. These rate bands will be tied to the quantity of Units of Measure available for the Customer's use.

5. Provision of Services

5.1. The Service Provider shall supply the Services to the Client, using all reasonable care and skill, from the Commencement Date for the Initial Term unless this Agreement is terminated earlier in accordance with its terms.

5.2. The Service Provider shall be at liberty to choose and/or modify the technology, infrastructure and telecommunications networks that will be used to perform the Managed Services as long as the Managed Services comply with the Managed Services Specification.

5.3. The Managed Services shall provide the Client with:

- (a) data storage functionality, backup functionality, anti-virus functionality, disaster recovery functionality, hosting functionality and computer security functionality, in respect of the Client Equipment, but only if and to the extent expressly described in the Managed Services Specification or as otherwise agreed by the parties pursuant to a Configuration Change Notice; and
- (b) the Support Services specified in this Agreement in respect of the Client Equipment;

- 5.4. The Client shall not have any right to physically access the data centre, the physical computer servers or other infrastructure from which the Managed Services are supplied, or any other premises of the Service Provider.
- 5.5. The Client may not perform internally or engage or employ any person (other than the Service Provider) to provide the Services during the Term in respect of the Client Equipment, Client Software or Third Party Software covered by this agreement unless consented in writing by an authorised officer of the Service Provider. However, the Service Provider may supply the Services or services similar to the Services to any third parties at any time as may be agreed between the Service Provider and those third parties from time to time.
- 5.6. The Service Provider shall bear no liability for any loss, damage, defect, or claim arising from or related to any services performed on the Client Equipment, Client Software, or Third-Party Software by the Client or any third party without the prior written consent of the Service Provider. Any unauthorised modifications, repairs, or services will void the Service Provider's obligations, warranties, and liability under this agreement with respect to the affected services, equipment, or software.
- 5.7. In the event that the Service Provider consents to the performance of Services by the Client or any person other than the Service Provider, the Service Provider shall not be liable for any loss, damage, defect, or deficiencies arising from such Services.
- 5.8. Regarding any issues arising from work done by the Client or any person other than the Service Provider, the Service Provider retains sole discretion to determine whether to rectify such and any rectification undertaken shall be at the Client's sole cost and expense unless otherwise agreed in writing by the Service Provider.
- 5.9. The Client agrees to indemnify, defend, and hold harmless the Service Provider, its affiliates, officers, employees, and agents from and against any and all claims, damages, losses, liabilities, costs, and expenses (including reasonable legal fees) arising out of or in connection with:
 - (a) Any alterations, modifications, or changes made to the Client Equipment, Client Software, or Third-Party Software by the Client or any third party without the prior written consent of the Service Provider;
 - (b) The performance of services on the Client Equipment, Client Software, or Third-Party Software by any person other than the Service Provider, whether or not such performance was consented to by the Service Provider; and
 - (c) Any breach of the Client's obligations under this agreement related to unauthorised modifications or the engagement of third parties to provide services.
- 5.10. This indemnity shall include any costs incurred by the Service Provider in rectifying or mitigating any issues resulting from such alterations, modifications, or third-party services, and any rectification shall be at the Client's sole expense unless otherwise agreed in writing by the Service Provider.

6. Acceptance Testing

- 6.1. Within the three months period commencing following the Commencement Date ("the **Acceptance Period**"), the Client must test the Managed Services to evaluate whether the Managed Services operate materially in accordance with the Managed Services Specification (the "**Acceptance Tests**").
- 6.2. The Service Provider must provide all assistance reasonably required by the Client to conduct the Acceptance Tests.
- 6.3. If the Client, acting reasonably, determines that the Managed Services do not comply with the Managed Services Specification in all material respects, the Client must within fourteen (14) days of the conclusion of the Acceptance Period, provide notice to the Service Provider setting out in detail a description of which of the Acceptance Tests have failed ("**Failure Notice**").
- 6.4. The Service Provider must, within sixty days of receipt of the Failure Notice modify the Managed Services so that they operate in accordance with the Managed Services Specification in all material respects.
- 6.5. Following modification of the Managed Services pursuant to clause 6.4, the Client shall repeat the Acceptance Tests on the Managed Services pursuant to clause 6.1 and the provisions of clauses 6.2, 6.3 and 6.4 shall apply to the re-tested Managed Services.
- 6.6. If the Managed Services do not operate in accordance with the Managed Services Specification in all material respects for up to three (3) rounds of re-testing in accordance with clauses 6.1 to 6.5 within six (6) months from the Commencement Date, and such failure is not caused or contributed to by any act or omission of the Client, and the Service Provider has verified such failure using test methods and criteria of a reasonable professional standard and confirmed such failure in writing, the Client may terminate this Agreement by written notice to the Service Provider.
- 6.7. In the event of termination under this clause:
 - (a) the Client must pay the Service Provider all fees and costs reasonably incurred in reliance on this Agreement for work performed up to the effective date of termination; and
 - (b) the Client's right to terminate under this clause is its sole and exclusive remedy in respect of any failure of the Managed Services to conform to the Managed Services Specification.

- 6.8. To the maximum extent permitted by law, the Service Provider shall have no further liability to the Client arising out of or in connection with such non-conformity or termination, except to refund any pre-paid amounts for Services not delivered. Any refund or payment otherwise due to the Client under this agreement shall be reduced by, or set off against, any amounts owed by the Client to the Service Provider, including but not limited to any claims, fees, costs, or other obligations arising under or in connection with this agreement or the provision of services.”
- 6.9. If the Client does not issue a Failure Notice within fourteen (14) days of the conclusion of the Acceptance Period, the Managed Services will be deemed to be performing in accordance with the Managed Services Specification in all material respects.

7. Availability and Performance of the Services

- 7.1. Except in respect of any Non-Excludable Guarantee, the Service Provider does not guarantee or represent that the Services or access thereto will be uninterrupted or error-free. Without limiting the foregoing provisions, if the Service Provider expressly agrees to supply operating systems, data storage, backup functionality, anti-virus functionality, disaster recovery functionality, hosting functionality and/or computer security functionality as part of the Managed Services, the Service Provider does not provide any express warranty that the functionality will perform uninterrupted or error-free, and the Client agrees, that it does not expect the functionality to perform on an uninterrupted or error-free basis.
- 7.2. The Service Provider agrees to use all reasonable endeavours to ensure that errors are not committed and provide the Managed Services in accordance with the Service Levels.
- 7.3. Notwithstanding clause 7.1, the availability of the Managed Services will be subject, in addition to any other provisions set out in this Agreement, to any bandwidth limitations, database size limitations, throughput limitations and other technical and non-technical limitations or restrictions set out in the Managed Services Specification.
- 7.4. The Client agrees and acknowledges that the accessibility of the Managed Services is highly dependent on the proper function of the Internet and any other computer and telecommunications networks and infrastructure upon which the Managed Services operate, interface with or connect to.
- 7.5. The Service Provider will use reasonable effort to notify the Client in advance of any scheduled outage of the Managed Services.

8. Orders for Services

- 8.1. If the Client wishes to alter the configuration or makeup of the Client Equipment, Client Software or Third Party Software, Internet, Cloud Hosting or upgrade or downgrade the Managed Services, the Client must notify the Service Provider via the Service Provider's standard ordering form, which outlines the Fees and Service Levels approved and determined by the Service Provider under a current written quotation issued by the Service Provider at the time of the alteration request, in respect of the altered configuration, makeup or upgrade of the Managed Services ("**Configuration Change Notice**").
- 8.2. Within twenty-one (21) days from the receipt by the Service Provider of a valid Configuration Change Notice from the Client, the Service Provider must effect the relevant configuration alteration, upgrade or downgrade.

9. Obligations for all Parties

Client Obligations

- 9.1. The Client must provide the Service Provider with all information, access details (including usernames and passwords), building clearances and cooperation as reasonably necessary for the Service Provider to carry out its obligations under this Agreement.
- 9.2. The Managed Services, Internet and Cloud Hosting may not be used in any manner that is illegal, discriminatory, abusive, insulting, threatening, obscene, harassing, racist, or otherwise inappropriate and the Client's commission, or authorising, aiding, abetting, encouraging or inciting any person to do or attempt to use the Services in any such manner (including, but not limited to, by any one or more of the following acts) is strictly prohibited:
- Violation of all or any legal rights of any person or company or other entity in any jurisdiction is strictly prohibited;
 - Using the Services in relation to crimes such as theft and fraud is strictly prohibited;
 - Using the Services in breach of laws relating to the protection of copyright, trade secrets, patents or other intellectual property rights and laws relating to spam or privacy and whether such violation is by way of the installation or distribution of "pirated" software or otherwise, is strictly prohibited;
 - Unauthorised copying of copyrighted material including, but not limited to, digitisation and distribution of photographs from magazines, books or other copyrighted sources, copyrighted music or video and the installation of any copyrighted software for which the Client does not have an active license is strictly prohibited;

- (e) Exporting software, technical information, encryption software or technology, in violation of domestic export control laws, is strictly prohibited;
 - (f) Introduction of malicious programs into the Service Provider's network or servers (e.g., viruses, worms, Trojan horses, e-mail bombs) is strictly prohibited;
 - (g) Revealing the Client's account password to others or allowing use of, modification of or tampering with the Services by third parties is strictly prohibited;
 - (h) Using the Services to actively engage in procuring or transmitting material that is in violation of sexual harassment or workplace relations laws is strictly prohibited;
 - (i) Effecting security breaches or disruptions of network communication is strictly prohibited. Security breaches include, but are not limited to, accessing data of which the Client is not an intended recipient or logging into a server or account that the Client is not expressly authorised to access or corrupting any data. For the purposes of this paragraph, "disruption" includes, but is not limited to, network sniffing, pinged floods, packet spoofing, denial of service, and forged routing information for malicious purposes;
 - (j) Executing any form of network monitoring which will intercept data not intended for the Client is strictly prohibited;
 - (k) Circumventing user authentication or security of any Service Provider host, network or account (or those of any supplier of the Service Provider) is strictly prohibited;
 - (l) Interfering with or denying service to anyone is strictly prohibited;
 - (m) Using any program/script/command, or sending messages of any kind, with the intent to interfere with, or disable, any persons' terminal session, via any means, locally or via the Internet, is strictly prohibited;
 - (n) Sending unsolicited email messages in breach of the Spam Act 2003 is strictly prohibited;
 - (o) Any form of harassment via email, or any other form of messaging, whether through language, frequency, or size of messages is strictly prohibited;
 - (p) Unauthorised use, or forging, of email header information is strictly prohibited;
 - (q) Solicitation of email for any email address, with the intent to harass or to collect replies is strictly prohibited;
 - (r) Creating or forwarding "chain letters", "Ponzi" or other "pyramid" schemes of any type is strictly prohibited;
 - (s) Use of the Services in breach of any person's privacy (such as by way of identity theft or "phishing") is strictly prohibited;
 - (t) Use of the Services in breach of any instructions manuals, user documentation or reasonable directions of the Service Provider is strictly prohibited.
- 9.3.** The Client must not resell or resupply or otherwise permit any third party (including any customers, clients or subcontractors of the Client) to use, access or operate the Services, without the prior written consent of the Service Provider
- 9.4.** The Client shall not, under any circumstances, reverse engineer, disassemble, decompile, or otherwise attempt to gain unauthorised access to, or knowledge of, any intellectual property, source code, proprietary information, or trade secrets of the Service Provider. This includes, but is not limited to, software, product designs, processes, codes (at all levels), systems, or technologies owned or licensed by the Service Provider. Any breach of this clause shall be deemed a material breach of this Agreement and entitle the Service Provider to seek all available legal and equitable remedies.
- 9.5.** The Client indemnifies the Service Provider in respect of all and any loss and damage incurred by the Service Provider as a result of any breach by the Client of its obligations under this clause 9 or as a result of any use of any software, data or other materials or information stored on or transmitted by the Client Equipment or Services. The Client warrants that all software, data, materials and information that is stored on or transmitted by any of the Client Equipment or the Services will not infringe the rights of any person or breach any law or regulation.

Service Provider Obligations

- 9.6.** The Service Provider (including the personnel of the Service Provider) must:
- (a) fulfill all reasonable requests from the Client;
 - (b) exercise the degree of care, skill and diligence that is normally expected by any qualified, skilled and experienced professional provider of the services;
 - (c) provide regular performance reporting and other relevant metrics relating to the services being provided as the Client reasonably requires;
 - (d) priority shall be given in accordance with the Service Levels in Schedule 4 and 5 of this Agreement.
 - (e) comply with all laws;
 - (f) have in place appropriate insurances, of which the certificates of currency may be called upon within a reasonable timeframe by the Client;

- (g) take all reasonable steps to ensure appropriate measures are in place to maximise the Service Providers cybersecurity, specifically in relation to any procedures or process impacting engagement with the Client.
- 9.7.** The Service Provider indemnifies the Client for direct loss and damage caused solely by the Service Provider of its obligations under Clause 9.6 This indemnity excludes any liability for:
 - (a) Losses arising from scheduled maintenance or downtime, provided the Client was notified at least 24 hours in advance;
 - (b) Emergency maintenance or downtime, where the Client was notified as soon as reasonably practicable; and
 - (c) Indirect, consequential, or incidental losses, including but not limited to loss of profits, data, or business opportunities, even if the Service Provider was advised of the possibility of such losses.
- 9.8.** Notwithstanding anything to the contrary in this Agreement, the total aggregate liability of the Service Provider under this Agreement shall be limited to the amount paid by the Client to the Service Provider in the preceding 12 months under this Agreement.

10. Client Data

- 10.1.** As between the Service Provider and the Client, the Client owns all Client Data and this Agreement does not transfer any Intellectual Property Rights in the Client Data to the Service Provider.
- 10.2.** The Client agrees and acknowledges that:
 - (a) the Service Provider may not own or operate the infrastructure upon which the Client Data is hosted, stored, transferred or processed in the course of the provision of the Services.
- 10.3.** Each time the Client uses the Services the Client warrants, agrees and represents that:
 - (a) the Client will only upload, input and transfer Client Data into and/or via the Services or disclose Client Data to the Service Provider, which the Client is fully entitled and authorised to so upload, input, transfer and disclose; and
 - (b) the Client Data and/or the Service Provider's collection, use, storage and/or disclosure thereof in the course of performing the Services, does not and will not breach any applicable law or right of any person.
- 10.4.** The Client grants the Service Provider irrevocable, perpetual, non-exclusive, royalty-free, worldwide licence to use the Client Data for the purpose of providing the Services.
- 10.5.** The Client is solely responsible for the accuracy, legality, quality and for obtaining any permissions, licenses, rights and authorisations necessary for the Service Provider to use, host, transmit, store and disclose the Client Data for the purposes of providing the Services.
- 10.6.** Except in respect of any Non-Excludable Guarantee, and except to the extent that the Managed Services Description expressly requires the Service Provider to backup and/or archive, host and/or secure the Client Data, the Client agrees that the Client, not the Service Provider, is solely responsible for providing or procuring each of the following:
 - (a) backing up and archiving of all Client Data;
 - (b) hosting the Client Data;
 - (c) securing the Client Data;
 - (d) any loss, corruption or hacking of any Client Data.
- 10.7.** The Client indemnifies the Service Provider in respect of any loss and damage the Service Provider or any of the Service Provider's suppliers incur in respect of any claim that any of the Client Data infringes the Intellectual Property Rights or other rights of any person or breaches any law, regulation, code or standard.
- 10.8.** The Service Provider indemnifies the Client for direct loss and damage caused solely by the Service Provider of its obligations under Clause 7.
- 10.9.** Notwithstanding anything to the contrary in this Agreement, the total aggregate liability of the Service Provider under this Agreement shall be limited to the amount paid by the Client to the Service Provider in the preceding 12 months under this Agreement.

11. Incident Reporting and Data Breach Handling

- 11.1.** As soon as becoming aware of an accident or serious incident affecting the provision of Services, each party shall inform the other of the cause of the event and take such action as is necessary to deal with the situation. The party responsible will provide a written report setting out the cause of the event and all other relevant information as soon as practicable after remedial action has been taken.
- 11.2.** With respect to any suspected or actual unauthorised access to, disclosure, or loss of data (Data Breach), the parties must immediately notify each other and immediately cooperate with each other to investigate and promptly take all steps reasonably available to the parties to remedy the data breach and to mitigate any harm to individuals which may result from the data breach; cooperate with each other and provide relevant authorities with all information, documents, ongoing updates, and assistance reasonably required by the authorities in respect of the data breach.

- 11.3.** If known at the time of notification that there are reasonable grounds to believe the relevant circumstances amount to any suspected, likely or actual unauthorised access to, unauthorised disclosure or loss of any Personal Information or any data that a reasonable person would conclude that the access or disclosure would be likely to result in serious harm to any of the individuals to whom the information relates, the parties shall cooperate with each other to collect all necessary information, documents required for the Service Provider's fulfilment of obligations under Data Protection Laws, including but not limited to general notification obligations under Division 3 Subdivision B of Part III C of the Privacy Act.
- 11.4.** Where either the Service Provider or the Client are required to comply with any obligations arising under the Privacy Act 1998 (Cth) in relation to an Eligible Data Breach of the Client's data, both parties must use all reasonable endeavours to ensure that they comply with their obligations under the Act.
- 11.5.** Incident Reporting and Data Breach Handling obligations:
- (a) **Acknowledgement and Obligations**
Accucom acknowledges its role in providing hosted infrastructure services and accepts responsibility to comply with its own obligations under the Privacy Act 1988 (Cth) and the Notifiable Data Breach Scheme. Accucom will:
- (i) Maintain reasonable and proportionate security measures to protect the personal information stored within the infrastructure under its management;
 - (ii) Promptly notify the Client of any suspected or actual data breach involving personal information; and
 - (iii) Provide reasonable assistance to the Client in investigating, managing, and reporting any data breach.
- (b) **Indemnity for Accucom-Caused Breach**
If a data breach is forensically determined to have originated from Accucom's acts or omissions, Accucom will indemnify the Client for any direct losses reasonably foreseeable at the time of that breach, excluding any indirect, consequential, or punitive losses.
- (c) **Third-Party Providers (Including ThinkOn)**
The Client acknowledges that Accucom engages third-party providers to deliver certain services. Accucom will use reasonable efforts to ensure that such third-party providers are contractually obligated to:
- (i) Maintain appropriate security standards and insurance for data breach risks; and
 - (ii) Cooperate with Accucom and, where appropriate, the Client in the investigation and management of any data breach, to the extent reasonably practicable.
- (d) **Limitation of Liability**
Nothing in this clause transfers the Client's statutory obligations as the Australian Privacy Principles (APP) entity under the Privacy Act 1988 (Cth). Accucom's indemnity does not extend to breaches caused solely by the actions, omissions, or failures of third-party providers, or by the Client.
- 12. IP Addresses and telephone numbers**
- 12.1.** The Client agrees and acknowledges that in order for it to use the Services, the Service Provider may need to allocate to the Client one or more identifiers such as an IP address or a domain name ("Identifiers").
- 12.2.** The Client agrees and acknowledges that the Identifiers are not owned by the Service Provider and the Service Provider may need to forego, reallocate or reassign the Identifiers to comply with rules and other requirements (as applicable) in respect of the Identifiers, such as the Australian Communications and Media Authority's regulations and directions from the administrators of domain names.
- 12.3.** The Service Provider will notify the Client if the Service Provider is required to forego, reallocate or reassign any Identifier allocated to the Client by the Service Provider.
- 13. Support Services**
- 13.1.** If during the Term, the Services are repeatedly not operating materially in accordance with the Services Specification ("**Error**"), the Client may notify the Service Provider that it requires technical support ("**Support Request**") in accordance with the following procedure:
- (a) the Client must issue a Support Request to the Service Provider via the Service Provider's telephone helpdesk (if any) or the Service Provider's online support helpdesk system (if any) via the contact details set out in Schedule 1 to 3;
 - (b) when issuing a Support Request, the Client must ensure that it provides to the Service Provider:
 - (iii) the name and contact details of the Client's staff member who is experiencing the Error;
 - (iv) a detailed description of the Error;
 - (v) the severity of the Error (low, medium or high)
 - (vi) evidence of the Error; and
 - (vii) any other information reasonably required by the Service Provider.

- 13.2.** Upon receipt of a valid Support Request, the Service Provider must provide the following services ("**Support Services**"):
- (a) the Service Provider must confirm receipt of the Support Request;
 - (b) the Service Provider must use commercially reasonable efforts to resolve the Error so that the Services perform materially in accordance with the Services Specification;
 - (c) until the Error is resolved by the Service Provider in accordance with clause 13.2(b), the Service Provider must provide the Client with regular updates on the status of the Support Request and the time anticipated by the Service Provider for resolution.
- 13.3.** The Service Provider may decline Support Request that does not include the information or evidence required in clause 13.1 (b).
- 13.4.** The Client must permit the Service Provider to temporarily suspend the operation of the Services as reasonably required by the Service Provider to perform the Support Services. The Service Provider shall not be liable for any loss or damage arising from service interruptions or downtime required to perform Support Services.

14. Exclusions

- 14.1.** The Service Provider has no obligation to perform any Support Services in respect of an Error caused by:
- (a) the Client's use of the Services in combination with software or hardware not supplied or approved in writing by the Service Provider;
 - (b) any modification of the Client Equipment, Client Software or Third Party Software not authorised by the Service Provider;
 - (c) Client Data; in the event that the error is caused by the Client's file or record being deleted or corrupted;
 - (d) a failure or corruption of any hardware, software, network or database beyond the reasonable control of the Service Provider;
 - (e) a failure or corruption of any Client Software, Client Data or Third Party Software; or
 - (f) the Client's breach of this Agreement,
- (the "**Excluded Services**").
- 14.2.** For the avoidance of doubt, the Service Provider is not required to attend the Client's premises to perform the Services.
- 14.3.** The Service Provider may in its absolute discretion agree to perform Excluded Services for the Client at the Ad Hoc Rates, all of which shall be payable within 30 days of invoice. In addition, if the Service Provider agrees to perform on site technical support at the Client's premises as part of the Support Services the Client must pay the Service Provider at the Ad Hoc Rates on a time and materials basis for all such attendances, including any time travelling to and from the Client's premises all of which shall be payable by the Client within 30 days of invoice.
- Internet Services**
- 14.4.** Unless specifically listed in the applicable Schedule, the installation price excludes any fee for service, commercial works or lead in upgrades that may be required if, on assessment the cable path beyond the first network boundary point or the existing infrastructure paths are not suitable, damaged or full. If any additional works are required within the tenancy boundary, the Client will be provided with quotes from the carrier to review before accepting the charges associated with the works.
- 14.5.** Any cabling on the customer side of the network termination device remains solely the responsibility of the Client to complete.
- Cloud Hosting Services (IaaS)**
- 14.6.** Unless specifically listed in the applicable Schedule, it is the Client's sole responsibility to determine whatever actions are deemed necessary to make their data and voice networks and circuits secure from unauthorised access, including but not limited to hardware firewalls being in place and wireless data traffic in the environment being securely encrypted.
- 14.7.** The Service Provider is not responsible for:
- (a) the security of the Client's network and circuits from third parties, or for any damages that may result from any unauthorised access to the Client's network. The Client has an affirmative obligation to protect their network environment, and to train its employees for spam, malware, phishing, virus protection, and prevention from criminal acts of third parties.
 - (b) criminal acts of third parties, including but not limited to hackers, phishers, cryptolocker, and any network environment subject to ransom.
- 14.8.** If a security system for Client's network is included within the Services to be provided. The Service Provider agrees to use commercially reasonable efforts to protect the Client's network from malicious attack by computer viruses, computer worms and/or computer hackers (collectively, "malicious activities"). However, all parties understand that no security system can guarantee complete protection

against malicious activities as such attacks often involve the intentional action by external threat actors to invade and injure computer systems.

Hardware as a Service (HaaS)

- 14.9. It is the Clients sole responsibility to ensure any managed or rented devices are adequately insured with the Service Provider noted as the interested party.

15. Fees

- 1.1. Services will be billed monthly in advance and the Client must pay the Fees to the Service Provider in accordance with the Payment Terms.
- 1.2. The Fees are exclusive of all taxes, duties and customs including GST and the Client agrees to pay the Service Provider all taxes, duties and customs, including GST, in respect of any Supply (as that term is defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*) made by the Service Provider under this Agreement. The Client must pay all such taxes, duties and customs, including GST, at the same time as the Fees.
- 1.3. The Service Provider may suspend the performance of the Services if the Client fails to pay the Fees in accordance with the Payment Terms.
- 1.4. If the Client is in Default and fails to make payment of overdue Fees for thirty (30) days after written notice that the applicable amount is overdue, unless legally prohibited, our Cloud Hosting Vendor partner may delete the applicable Subscriber data on its systems or otherwise in its possession or under its control.
- 1.5. Software subscription pricing in this agreement may be subject to a monthly FX (foreign exchange) variation as passed on by our Vendor partner. All other pricing is subject to the greater of an annual increase of 5% or CPI (Consumer Price Index), based on the rate published by the Australian Bureau of Statistics, and applied from the annual anniversary date.
- 1.6. Fees will continue to be billed until the Client has returned all Managed or Rented hardware to the Service Provider.
- 1.7. If the Client fails to pay any Fees or other amounts due under this Agreement on or before the due date, the Client shall pay interest on the overdue amount from the due date until the date of actual payment. The interest shall be calculated at a rate of 9% per annum above the base lending rate of the Reserve Bank of Australia (or such other Australian institution as the Service Provider may reasonably nominate), accruing daily and compounding monthly. Payment of interest does not prejudice the Service Provider's right to recover any additional costs, damages, or exercise any remedies available under this Agreement or at law.

16. Intellectual Property

Service Provider's Intellectual Property

- 16.1. The Intellectual Property rights owned or developed by the Service Provider prior to entering into this Agreement, and any Intellectual Property created independently by the Service Provider during the performance of Services under this Agreement, shall remain the exclusive property of the Service Provider ("Service Provider's IP").
- 16.2. The Client acknowledges and agrees that it shall have no claim or rights of ownership over Service Provider's IP, and the Service Provider grants the Client a non-exclusive, revocable, and non-transferable licence to use the Service Provider's IP solely for the purpose of utilising the Services provided under this Agreement.

Client's Intellectual Property

- 16.3. The Intellectual Property rights owned or developed by the Client prior to entering into this agreement, and any Intellectual Property created independently by the Client during the term of this agreement, shall remain the exclusive property of the Client ("Client's IP").
- 16.4. The Service Provider acknowledges and agrees that it shall have no claim or rights of ownership over Client's IP, and the Client grants the Service Provider an irrevocable, perpetual, non-exclusive, royalty-free, worldwide licence to use Client's IP solely for the purpose of performing the services under this Agreement.

Jointly Developed Intellectual Property

- 16.5. In the event that the Service Provider and the Client collaboratively develop Intellectual Property during the course of providing Services under this agreement, both parties shall have equal ownership rights ("Joint IP").
- 16.6. The parties shall negotiate in good faith the terms and conditions governing the ownership, use, and licensing of the Joint IP, including any potential commercialisation of such Intellectual Property.

No Implied Licensing

- 16.7. Nothing in this agreement shall be construed as granting either party any rights, license, or interest in the other party's Intellectual Property other than as expressly provided for in this Agreement.

17. Ownership of Equipment

- 17.1. As between the Service Provider and the Client, the Client remains the owner of the Client Equipment and this Agreement does not transfer or assign title to the Client Equipment to the Service Provider.
- 17.2. If this agreement specifies a Hardware as a Service or Cloud Hosting as a Service (SaaS/IaaS/PaaS) component in Schedule 3 or 4, the Service Provider or our upstream partner remain the owner of the Equipment, and this Agreement does not transfer or assign title to the Client.

18. Liability

- 18.1. Neither party is liable to the other party for any indirect, special or consequential loss or damage incurred by the other party, including liability for loss of profits, loss of business opportunity or loss of savings.
- 18.2. The Service Provider is not liable for any loss of data, except where the Service Provider expressly agrees to supply data backup functionality as part of the Managed Services, and in those circumstances, only to the extent any loss of Client Data is caused by the gross negligence, wilful misconduct or breach of this Agreement by the Service Provider.
- 18.3. The Service Provider is only liable for loss referred to in clause 18.2 and for any other direct loss incurred by the Client caused solely breaches by the Service Provider of its obligations under this Agreement. However, the Service Provider's liability for all such direct loss is capped, in the aggregate, at an amount equivalent to the value of the Fees paid by the Client under this Agreement in the preceding 12 months, and which cap is reduced to the extent the Client or any Force Majeure Event caused or was responsible for such loss.
- 18.4. The goods and services supplied under this Agreement may come with implied non-excludable guarantees which are regulated by the Australian Consumer Law. The extent of the implied guarantees depends on whether the Client is a 'consumer' of goods or services within the meaning of that term pursuant to the Australian Consumer Law as amended. Where the Client is a 'consumer' for the purposes of the Australian Consumer Law, the Service Provider is required to provide the following mandatory statement to the Client: "Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Client is entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. The Client is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure."
- 18.5. If the goods or services supplied by the Service Provider to the Client are supplied to the Client as a 'consumer' of goods or services within the meaning of that term in the Australian Consumer Law as amended the Client will have the benefit of certain non-excludable rights and remedies in respect of the goods or services and nothing in these terms and conditions excludes or restricts or modifies any condition, warranty, guarantee, right or remedy which pursuant to the *Competition and Consumer Act 2010 (Cth)* is so conferred. However, if the goods or services are subject to a non-excludable condition, warranty, guarantee, right or remedy implied by the Australian Consumer Law and the goods or services are not ordinarily acquired for personal, domestic or household use or consumption, then pursuant to s 64A of the Australian Consumer Law, the Service Provider limits its liability for breach of any such non-excludable warranty, guarantee, right or remedy implied by the Australian Consumer Law (other than a guarantee implied by sections 51, 52 or 53 of the Australian Consumer Law) or expressly given by the Service Provider to the Client, in respect of each of the goods and services, where it is fair and reasonable to do so, at the option of the Service Provider, to one or more of the following:
 - (a) if the breach relates to goods:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of such goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; and
 - (b) if the breach relates to services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.
- 18.6. In order for the Client to claim against the Service Provider under a non-excludable warranty, guarantee, right or remedy provided by the Australian Consumer Law, or under an express warranty given in respect of the goods or services provided under this Agreement, the Client must provide written notice to the Service Provider with documentary evidence substantiating the claim, for the Service Provider's review, and, in respect of the Managed Services, must continue to use them only in accordance with the provisions of this Agreement.
- 18.7. Upon receipt of a valid claim from the Client under an implied warranty, guarantee, right or remedy provided by the Australian Consumer Law, the Service Provider will contact the Client to arrange a suitable remedy. The Client may claim reasonable expenses incurred in making a valid claim under such a warranty, guarantee, right or remedy by providing documentary evidence of the expenses to the Service Provider. The Client will be responsible for any expenses incurred in relation to an invalid claim.

- 18.8.** Where the Service Provider elects to repair goods as a result of the Client's claim, the Client agrees that the goods or part of the goods may be replaced by refurbished goods of the same type rather than being repaired and refurbished parts may be used to repair goods. The Client acknowledges that where the goods are repaired and are capable of retaining data, including but not limited to user-generated data or Client Data, it is possible that the repair of the goods may result in loss or corruption of data. It is the Client's responsibility to back up the data before providing the Service Provider with the goods for repair or replacement.
- 18.9.** Any warranty against defects provided by the Service Provider to the Client as a 'consumer' under the Australian Consumer Law is in addition to other rights and remedies of the Client under a law in relation to the goods or services to which the warranty relates.
- 18.10.** Other than any applicable Non-Excludable Guarantees (if any), all conditions, warranties and guarantees implied in this Agreement are excluded, to the extent possible by law.
- 18.11.** If additional third party software licenses or subscriptions are supplied and listed in the Schedule below as part of this agreement, the Client acknowledges that all development and related software fault resolution is the sole responsibility of the specific vendor. The Service Provider will make every endeavour to represent such issues on behalf of the Client however the Client acknowledges the Vendor is ultimately responsible for the resolution.

19. Confidentiality

- 19.1.** Each party agrees and acknowledges that it may receive information of the other party from the other party during the Term of this Agreement that is marked as confidential or is deemed confidential by law ("**Confidential Information**")
- 19.2.** Each party (the first party) agrees and acknowledges that the Confidential Information of the other party will be received and held by the first party in strict confidence and will not be disclosed by the first party, except:
- (a) with the prior written consent of the other party;
 - (b) where disclosed to the employees, agents or professional advisors of the first party on a confidential basis;
 - (c) as required by the rules of any stock exchange; or
 - (d) as required by a court of competent jurisdiction, and then, only to the extent required, and provided that the first party must promptly notify the other party of such requirement of disclosure and provide full particulars to the other party of the disclosure.
- 19.3.** Confidential Information does not include any information:
- (a) that is independently developed, obtained or known by a party, without any obligation of confidence to the other party; or
 - (b) that is in the public domain, except where due to a breach of this Agreement or any breach of any obligation of confidence.

20. Termination

- 20.1.** Either party may terminate this Agreement if the other party (the "defaulting party") is in material breach of this Agreement and the breach is not capable of remedy, or where the breach is capable of remedy and the defaulting party fails to remedy the breach within thirty (30) days of notice.
- 20.2.** A party may terminate this Agreement by notice to the other party if the other party suffers an Insolvency Event.
- 20.3.** Termination does not affect any accrued rights of either party.
- 20.4.** In the event that the Client decides to terminate this Agreement prior to the expiry of the Initial Term other than for reasons stated in Clause 20.1 and 20.2, such termination shall be effectuated upon the giving of 90-day written notice to the Service Provider. Upon termination of this Agreement by the Client, the Client shall pay the Service Provider a sum of money as liquidated damages. The parties acknowledge that this amount is not a penalty but a genuine pre-estimate of the loss that the Service Provider is likely to incur due to the early termination of the Agreement. The Client agrees that such payment shall be made within 30 days of either the termination date or the date on which the Service Provider issues an invoice for the liquidated damages, whichever is later
- Managed Services Component**
- 20.5.** The amount of liquidated damages payable by the Client under this Agreement for terminating the Managed Services component shall be calculated as 50 per cent of the remaining value of the Agreement.
- Internet Component**
- 20.6.** The amount of liquidated damages payable by the Client under this Agreement for terminating the Internet component of the contract shall be calculated as 100 per cent of the remaining value of the Agreement.
- 20.7.** If an accepted order is withdrawn before completion, the Client shall:

- (a) Pay a cancellation fee equal to three (3) months of the normal monthly fee plus GST; and
 - (b) Reimburse the cost of any installation works completed up to that point.
- 20.8.** Clauses 20.6 and 20.7 pertains to any third-party or Accucom branded internet and WAN services forming part of the overall solution as listed in the Schedule.
- Cloud Hosting Services (IaaS) Component**
- 20.9.** The amount of liquidated damages payable by the Client under this Agreement for terminating the Cloud Hosting As A Service component of the contract shall be calculated as 100 per cent of the remaining value of the Agreement.
- 20.10.** Clause 20.9 pertains to any third-party or Accucom branded Infrastructure as a Service, Software as a Service or Platform as a Service solutions forming part of the overall solution as listed in the Schedule.
- Hardware as a Service (HaaS) Component**
- 20.11.** The amount of liquidated damages payable by the Client under this Agreement for terminating the Hardware as a Service component of the contract shall be calculated as 100 per cent of the remaining value of the Agreement.
- 20.12.** Clause 20.11 pertains to any third-party vendor hardware or related software solutions forming part of the overall solution as listed in the Schedule.

21. End of Term

Managed Services, Hardware as a Service Component

- 21.1.** At the conclusion of the initial Term, the Managed Services and the Hardware as a Service Component agreement will continue on a quarter-to-quarter basis unless terminated or renewed upon agreement by both parties. Such termination shall be effectuated upon the giving of 90-day written notice to the Service Provider.

Internet Component

- 21.2.** At the conclusion of the initial Term, the Internet agreement will continue on a quarter-to-quarter basis unless terminated or renewed upon agreement by both parties. Such termination shall be effectuated upon the giving of 90-day written notice to the Service Provider.
- 21.3.** Upon termination of the Internet agreement, all Network Termination Equipment used to provide the service must be returned to the Service Provider within 30 days unless otherwise agreed in writing. If this equipment is not returned as specified, the Client shall pay the Service Provider a sum of money as liquidated damages. The parties acknowledge that this amount is not a penalty but a genuine pre-estimate of the cost the Service Provider is likely to incur to replace the equipment.

Cloud Hosting Services (IaaS) Component

- 21.4.** At the conclusion of the initial Term, the agreement shall automatically renew for successive Renewal Term periods with a length equal to the lesser of 12 months or the Initial Term length, unless either Party provides written notice of non-renewal to the other Party at least 90 days prior to the end of the then current term of the Agreement (the Initial Term and any renewals thereof being referred to as the "Term").
- 21.5.** Clause 21.4 pertains to any third-party or Accucom branded Infrastructure as a Service, Software as a Service or Platform as a Service solutions forming part of the overall solution as listed in the Schedule.
- 21.6.** The parties acknowledge that this structure is to protect the Client against any unexpected disruption or outage to key business services.

Billing

- 21.7.** Fees will continue to be billed until the Client has returned all Managed or Rented hardware to the Service Provider.

21.8. Billing Disputes

- (a) The Client may dispute an amount invoiced by the Service Provider only if the Client complies with the procedures set forth in this Billing Disputes clause.
- (b) Except for any valid billing dispute raised in accordance with this clause, the Client acknowledges that the invoice is valid and payable. The Client must pay any undisputed portion of the invoice by its due date.
- (c) To raise a valid billing dispute, the Client must:
 - 21.8.c.1. submit a good faith request to the Service Provider to review the specific charges or invoice, providing detailed evidence that demonstrates why a particular charge or invoice is incorrect; and
 - 21.8.c.2. submit the request within 30 days of the date of the relevant invoice.
- (d) Upon receiving a valid billing dispute, the Service Provider will conduct a reasonable and appropriate investigation into the disputed charges. Following the conclusion of the investigation, the Client must pay any outstanding amount, including interest, within 7 days of the Service Provider's notification of the investigation outcome.
- (e) If the Client disputes the results of the investigation, the matter will be handled in accordance with the Dispute Resolution clause of this Agreement.

22. Notices

- 22.1. A notice under this Agreement shall be sent by hand delivery, post, or email, using the address specified at the top of the first page of this Agreement or the email address for the recipient's representative specified in Schedule 1.
- 22.2. Any notice issued by hand shall be deemed delivered upon delivery.
- 22.3. Any notice issued by post shall be deemed delivered 3 Business Days after posting if posted domestically, or 10 Business Days after posting if posted internationally.
- 22.4. Any notice issued via email shall be deemed to be delivered upon the email being sent, provided that if an email is sent out of Business Hours, it shall be deemed to be delivered at 9am on the next Business Day.

23. Dispute Resolution

- 23.1. If a dispute arises between the parties out of or relating to this Agreement ("Dispute"), any party to the Dispute must seek to resolve it strictly in accordance with the provisions of this clause. Compliance with the provisions of this clause is a condition precedent to seeking relief in any court in respect of the Dispute, except as otherwise provided in this clause.
- 23.2. The party (the complainant) to this Agreement claiming that a dispute has arisen under or in relation to this Agreement or the business must give written notice to the other party (the respondent) to this Agreement specifying the following:
 - (a) The nature of the dispute;
 - (b) The outcome the complainant desires, and
 - (c) The action the complainant will settle the dispute.
- 23.3. On receipt of the notice referred to in this clause by the respondent, both parties must endeavour to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation, determination or similar techniques agreed upon by them.
- 23.4. Mediation
 - (a) If the parties do not agree within one (1) calendar month of receipt of the notice, or such further period as agreed in writing by them, as to:
 - 23.4.a.1. The dispute resolution technique and procedures to be adopted;
 - 23.4.a.2. The timetable for all steps in those procedures; and
 - 23.4.a.3. The selection and compensation of the independent person required for such technique,then they must mediate the dispute in accordance with the mediation rules of the Resolution Institute in the Jurisdiction.
 - (b) The costs of the mediation will be borne equally by the parties.
- 23.5. If the mediation referred to above is not completed within four weeks of reference to a mediator, then either party may commence proceedings relating to the dispute as they see fit in the Jurisdiction.
- 23.6. Notwithstanding the preceding provisions of this clause, both parties must continue to fulfil their obligations under this Agreement pending resolution of the dispute.
- 23.7. Nothing in this clause shall limit either party's right to seek urgent interlocutory relief from any court of competent jurisdiction at any time.

24. Administrative Access and Remediation Clause

- 24.1. **Grant of Administrative Privileges.** Upon the Customer's written request, the Service Provider may grant "Administrative" or "Root" level access to the Supported Environment to designated Customer personnel. The Customer acknowledges that such access carries inherent risks to the stability, security, and performance of the Services.
- 24.2. **Customer Responsibility.** In the event that the Customer (or any third party granted access by the Customer) performs any configuration changes, installations, deletions, or modifications ("Customer Actions"), the Customer assumes full responsibility for the outcomes of those actions.
- 24.3. **Remediation and Out-of-Scope Charges.** If a Service Interruption, security vulnerability, or system failure is caused - directly or indirectly - by Customer Actions, the following shall apply:
 - (a) **Exclusion from SLA:** Any downtime resulting from Customer Actions shall be excluded from Service Level Agreement (SLA) uptime calculations and shall not entitle the Customer to service credits.
 - (b) **Billable Remediation:** Any labour performed by the Service Provider to diagnose, repair, or restore the environment following Customer-induced issues will be considered "Out-of-Scope" work.
 - (c) **Rates:** Such work will be billed at the Service Provider's then-current senior engineer business-hours or after-hours hourly rate, depending on the time of request, with a minimum engagement of 2 hours.

- (d) **No Warranty:** The Service Provider does not guarantee that systems can be restored to their exact state prior to the Customer's modifications if adequate backups were not maintained or were corrupted by the Customer's actions.

25. General

- 25.1. Amendment:** This Agreement may only be amended by a written document signed by the parties, which should not be unreasonably delayed.
- 25.2. Assignment:** The Service Provider may assign, transfer, licence or novate its rights or obligations under this Agreement without the prior written consent of the other party. The Client can only assign its rights under this Agreement with the written consent of the Service Provider which will not be unreasonably delayed.
- 25.3. Severability:** If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain enforceable.
- 25.4. Relationship:** The parties are independent contractors, and this Agreement does not create any relationship of partnership, joint venture, or employer and employee or otherwise.
- 25.5. Australian Consumer Law:** The exclusions and limitations of liability set out in this Agreement shall apply to the fullest extent permissible at law, but the parties do not exclude or limit liability which may not be excluded or limited by law. Without limiting the foregoing provisions, the Service Provider does not exclude liability under the Australian Consumer Law which is prohibited from being excluded. The parties acknowledge and agree that the limitations and exclusions of liability contained in this Agreement constitute an allocation of risks that form part of the negotiated commercial terms of this Agreement.
- 25.6. Counterparts:** This Agreement may be executed in counterparts provided that no binding agreement shall be reached until the executed counterparts are exchanged.
- 25.7. Entire Agreement:** This Agreement constitutes the entire agreement between the parties and to the extent possible by law, supersedes all prior understandings, representations, arrangements and agreements between the parties regarding its subject matter.
- 25.8. Choice of Law and Jurisdiction:** This Agreement will be interpreted in accordance with the laws in force in New South Wales. The parties irrevocably submit to the exclusive jurisdiction of the courts situated in New South Wales.



Schedule 1 – Managed Services

Managed Services: **Accucom Managed Services**

Further details of the Managed Services are specified in the Managed Services Specification annexed and marked "Annexure G".

Helpdesk: 02 8825 5555 (Opt. 2)
service@accucom.com.au

*Commencement
Date:*

Initial Term:

*Monthly Recurring
Charge:*

Implementation

Payment Terms:

Service Delivery

Address

Client

Representative:

*Client Email
Address:*

*Service Provider
Representative:*

*Service Provider
Email Address:*



Schedule 2 – Internet Services

Service

Helpdesk 02 8825 5555 (Opt. 2)
service@accucom.com.au

Agreement

Commencement Date

Initial Term

Monthly Recurring Charge

Implementation

Payment Terms:

Service Delivery Address

Expected Installation Timeframe

Service Speed

Included Internet Data

Network Termination Device

Service Level Agreement

Class of Service

Customer VLAN ID

Ethernet Handoff Type (Tagged/Untagged)

Route Type

Service Parent Carrier

Minimum Contract Value

Client Representative:

Client Email Address:

Service Provider Representative:

Service Provider Email Address:



Schedule 3 – Cloud Hosting as a Service (SaaS/IaaS/PaaS)

<i>Service</i>	<i>Multi-Tenant Cloud</i>	<i>Qty</i>
----------------	---------------------------	------------

<i>Helpdesk</i>	02 8825 5555 (Opt. 2) service@accucom.com.au	
-----------------	---	--

<i>Agreement Commencement Date</i>		
--	--	--

<i>Initial Term</i>		
---------------------	--	--

<i>Monthly Recurring Charge</i>		
-------------------------------------	--	--

<i>Implementation</i>		
-----------------------	--	--

<i>Payment Terms:</i>		
-----------------------	--	--

<i>Hosting Location</i>		
-------------------------	--	--

<i>Expected Installation Timeframe</i>		
--	--	--

<i>Service Level Agreement</i>		
------------------------------------	--	--

<i>Client Representative:</i>		
-------------------------------	--	--

<i>Client Email Address:</i>		
------------------------------	--	--

<i>Service Provider Representative:</i>		
---	--	--

<i>Service Provider Email Address:</i>		
--	--	--



Schedule 4 – Hardware As a Service

Service **Included hardware and related software solutions**

Helpdesk 02 8825 5555 (Opt. 2)
service@accucom.com.au

*Agreement
Commencement Date*

Initial Term

*Monthly Recurring
Charge*

Implementation

Payment Terms:

Hosting Location

*Expected Installation
Timeframe*

*Service Level
Agreement*

Client Representative:

Client Email Address:

*Service Provider
Representative:*

*Service Provider Email
Address:*

Schedule 5 – Managed Services SLA

Managed Service Levels

The following service levels are in place for the managed services offering:

Incident Priority	Impact Description	Time to Respond (Business Hours)	Time to Respond Target (After Hours)
Level 1 – Critical	Critical failure. Business functions unavailable. Business cannot operate. Hardware or operating system.	Response within 30 min, on-site in 4 hours (if required). Update every 4 hours	Response within 1 hour, on-site in 4 hours (if required). Update as situation changes
Level 2 – Priority	Serious failure. Some important functions unavailable. Business can still operate. Hardware or application	Response within 2 hours, on-site same business day (if required). Update every 4 hours.	Response within 4 hours, on-site next business day (if required). Update as situation changes.
Level 3 – General	Non-critical. Day-to-day issues. Network, hardware and application issues.	Response within 8 hours, on-site next business day or as arranged (if required). Update via helpdesk ticket.	Response next business day, on-site next business day or as arranged (if required) Update as situation changes.

For clarification, the following applies:

- Incident Priority
 - the priority of the ticket is based on industry standard ITIL definitions.
- Time to respond
 - Response may be via a phone call or email as applicable.
 - this is our target time to start working on your issue.
 - the time is based on your support coverage window.
 - business hours or 24x7 (which attracts a higher charge)
- Customer updates
 - the interval we will provide updates to you about the status of your issue.
- Business Hours are from 8:30am to 5:30pm
- All after hours call outs will be charged at the relevant rate unless specifically listed as covered under your designated plan.

Schedule 6 – Internet Services SLA

What is Standard Restoration?

- The Standard Restoration service levels are indicative timeframes for the restoration of your service following a fault in your product or service.
- Standard Restoration is included with your product or service.

What is SLA Premium?

- SLA Premium is a range of enhanced coverage periods and restoration service levels which you can apply for at an additional cost.
- Any application for an SLA Premium service level is subject to feasibility and approval from the end carrier. We will notify you if your application is successful.

Service Level Exclusions

- Restoration service levels do not apply where the Restoration Target is affected by:
 - a) any hours during the Response Target or Restoration Target outside the Coverage Period.
 - b) a fault with your product or service that is caused by you.
 - c) except to the extent caused by us or our subcontractors:
 - i. the cutting of cable or fibre which is needed to provide your product or service.
 - ii. interference or damage to our equipment or network by you or by a third party.
 - iii. a fault beyond our network boundary point or with your equipment (unless we have specifically agreed in writing to support these things). Without limiting the foregoing, FTTN and FTTB (VDSL) devices not registered with nbn will not be supported on, or eligible for, SLA Premium.
 - d) you do not give us sufficient and timely access to your premises and equipment so that we can carry out the repair or restoration.
 - e) any other cause beyond our reasonable control (including, but not limited to, acts of God, industrial disputes of any kind, lightening, fire, earthquake, storm, flood, government restriction, determination of the Australian Competition and Consumer Commission, determination of any court of law or any such similar event).

Faults Caused By You

- If you ask us to restore your product or service and you have caused the fault (or the fault is caused by someone using your product or service) we may charge you our reasonable costs incurred in identifying, examining and rectifying those faults.

Support Zones

- Our support locations are based on population density or location. The zone where the work is to be performed (Support Zone) will determine the expected completion time of Restoration activities.

Support Zone	Population Size	Location
Urban / Metro	greater than 10,000	Within 50kms of a major city GPO
Major Rural	between 2,500 and 10,000	
Minor Rural / Rural	between 200 and 2,500	> 250km from a town with 10,000 people
Remote / Regional	Less than 200	

- Unless otherwise agreed with you, where a service has one end in a different area (e.g. urban area, rural area or remote area) to the other end, or where the fault occurs in a different area traversed by the service, the service will be classed according to the area which provides the longer Restoration Target.
- We will tell you at the time that you apply for the Standard Restoration service level or the SLA Premium service level whether your site or sites where the service level applies is located in an Urban area, a Rural area or a Remote area.
- SLA Premium service levels are not available in a Remote or Minor Rural area.



EA, EE and nbn™ Access Services

Service Level Options	Business Plus				
Urban Response Target	60 minutes				
Urban Restoration Target	12 hours				
Coverage Period	24x7				
Rural Support Zone	Urban Restoration Target PLUS 1 Business Day where accessible by road from an Urban location. If we are required to use 3rd Party transportation to attend an off-shore location, then our Restoration Target will be 5 Business Days				
Remote Support Zone	Urban Restoration Target PLUS 2 Business Days where accessible by road from an Urban location. If we are required to use 3rd Party transportation to attend a Remote location, then our Restoration Target will be 5 Business Days				
Access Technology Types	Support Availability				
Direct Fibre over nbn™ (ordered after 8/12/2023)	-	-	Included	-	Optional
Ethernet over nbn™	-	Included	Optional	Optional	Optional
Ethernet over nbn™ (TID)	-	Included	-	-	-

Optical Access Services

Service Level Options	Business Plus	Express 8	Express 8 Plus
Urban Response Target	60 minutes	30 minutes	30 minutes
Urban Restoration Target	12 hours	8 hours	6 hours
Coverage Period	24x7	24x7	24x7
Rural Support Zone	Urban Restoration Target PLUS 1 Business Day where accessible by road from an Urban location. If we are required to use 3rd Party transportation to attend an off-shore location, then our Restoration Target will be 5 Business Days		
Remote Support Zone	Urban Restoration Target PLUS 2 Business Days where accessible by road from an Urban location. If we are required to use 3rd Party transportation to attend a Remote location, then our Restoration Target will be 5 Business Days		
Access Technology Types	Support Availability		
Telstra Wavelength Service (TWS)		Included	Optional
OpticWave	Included	Optional	



Connect IP on nbn™ Access Services

Service Level Options	Business Plus				
Urban Response Target	60 minutes				
Urban Restoration Target	12 hours				
Coverage Period	24x7				
Rural Support Zone	Urban Restoration Target PLUS 1 Business Day where accessible by road from an Urban location. If we are required to use 3rd Party transportation to attend an off-shore location, then our Restoration Target will be 5 Business Days				
Remote Support Zone	Urban Restoration Target PLUS 2 Business Days where accessible by road from an Urban location. If we are required to use 3rd Party transportation to attend a Remote location, then our Restoration Target will be 5 Business Days				
Access Technology Types	Support Availability				
IPMAN/Ethernet MAN 1	-	-	Included	Optional	Optional
Direct Fibre over nbn™	-	-	Included	-	Optional
Ethernet over nbn™	-	Included	Optional	-	Optional
Business Broadband over nbn™ (FTTP, FTTN, FTTB, FTTC)	Included	Optional	Optional	-	Optional

Schedule 7 – Cloud Hosting (SaaS/IaaS/PaaS) SLA

CLOUD HOSTING SERVICES

Accucom undertakes to deliver the services outlined in Schedule 3 of this Agreement within the service level parameters outlined below. Accucom is responsible for all hardware and software underlying maintenance required to maintain the SLA for the specific solution being delivered.

Incident Management Service Level Commitments

The following table outlines goal times for specific activities (measures) within Incident Management based on Priority and the associated criticality rating of the solution and/or service impacted by the incident.

Compliance targets for meeting the Incident Management goals below will be set at 95%, calculated daily and monthly.

Measure	Critical (Priority 1)	High (Priority 2)	Medium (Priority 3)	Low (Priority 4)
Incident Resolution target	2 continuous hours	4.5 continuous hours	2 business days	4 business days
Incident Acknowledge target	15 continuous minutes	30 continuous minutes	120 continuous minutes	1 business day
Incident Response target	45 continuous minutes	60 continuous minutes	6 business hours	3 business days

Legend:

- Goals noted as “cont. hours” or “cont. min.” mean continuous hours or continuous minutes, respectively, and are measured on a continuous basis (7x24 calendar).
- Goals noted as “bus. days”, “bus. hours”, “bus. min.” means business days, hours, or minutes, respectively, and are all measured on a business day of 9 hours from 8:00 am to 5:00 pm, Monday to Friday, excluding statutory holidays; the time elapsed against such goals is suspended outside the business day.
- Support may be required for business hours extending from 8:00 am to 6:00 pm, Monday to Friday, holidays excluded.
- All times are based on Australian Eastern Standard Time (UTC+10).

Notes:

- All goal times are subject to change over the life of the contract, with advance notice provided to the Client.
- All “Incident Resolution” goals assume the Vendor is accountable for service restoration.
- All “Incident Acknowledge” and “Incident Response” goals apply to the Vendor regardless of whether the Vendor is accountable for service restoration, or whether the Vendor is assisting other parties who are accountable for service restoration.
- All “Incident Acknowledge” and “Incident Response” goals apply to the Vendor even if the Vendor transfers the Incident to another team for their feedback/assistance.
- All Incident Management goals assume that the Vendor has resources immediately available 7x24 / 365.
- All actions taken by the Vendor during Incident Acknowledge, Incident Response and/or Incident Resolution shall be documented in the Incident Management module, including why actions were taken.

SERVICE PARAMETERS

The following provisions set forth the service levels (the “SLA”) that defines the performance parameters by which we and our upstream partners operate the Services, and the credits available in the event such SLA’s are not met:

A. Availability

Objective: During any calendar month, Services will be available 99.99% of the time.

Definition: Accucom’s Services will be “unavailable” if

- Accucom or our upstream partner’s infrastructure fails to respond to standard ICMP or SNMP requests issued by internal monitoring systems, or
- such Services are identified as unavailable via phone call and in either case subsequent trouble shooting protocol provides confirmation of such unavailability.



Measurement: Accucom and its upstream partners will proactively measure, without the requirement of Client notification, the “unavailability” of Services from the time of such unavailability until the time responsiveness to standard ICMP or SNMP requests issued by internal monitoring systems are restored.

Remedy: If Services are not available in accordance with the Objective, Accucom will issue a credit in an amount equal to 1/30th of the recurring base monthly fee paid by Reseller for the affected Services for the then current month for each half hour (or portion thereof rounded to the next half hour) of the cumulative duration of such unavailability during such month. In addition, Accucom or our upstream partner’s shall provide a root cause analysis to the Client to identify the steps to rectify in the future. In no event will the aggregate amount credited under this SLA in any calendar month exceed the recurring base monthly fee paid by the Client for such affected Services for such month.

B. Network Latency

Objective: During any calendar month, the average round trip latency between any two agents within the Accucom IP network will not exceed 40 milliseconds.

Definition: Latency is defined as the round trip time it takes for a data packet to travel between two agents within the IP network. The term “Agents” refers to passive devices that are located in every facility containing service delivery infrastructure managed by Accucom or our upstream partner’s. Each Agent is placed on that facility’s network infrastructure to take measurements across such IP network.

Measurement: Accucom and our upstream partner’s will proactively measure, without the requirement of Client notification, latency based on polling by its network monitoring agents every minute and averaging latency of all monitoring samples during every 24-hour period.

Remedy: If average monthly latency is greater than the Objective above for any particular month, Accucom will issue a credit to the Service Provider for such month in an amount equal to 1/30th of the recurring base monthly fee paid for the affected Service for such month for each 24-hour period affected. In no event will the aggregate amount credited under this SLA in any calendar month exceed the recurring base monthly fee paid by the Client for such affected Services for such month.

C. Support

Objective: Accucom will respond to Client requests for technical support with respect to Accucom Services according to the following severity levels of support situations:

- (i) **Critical Support:** “Emergency Support” refers to situations when Services are unavailable (as defined in Section A - Availability. Accucom will respond by phone to all requests for Emergency Support within 30 minutes.
- (ii) **Priority Support:** “Urgent Support” refers to situations when Services are accessible, but functioning improperly or at a degraded state of performance (e.g., time outs or slow response), as determined by Accucom and our upstream partner’s. Accucom will respond to all requests for Urgent Support within two hours.
- (iii) **General Support:** “Standard Support” refers to situations when Services are accessible and functioning properly and optimally, but the Client requires information or assistance of some kind or desires to schedule maintenance. Accucom will respond to all requests for Standard Support within 24 hours.

Measurement: Accucom’s “Response Time” will be measured from the time an internal alarm records an incident or the Client calls or formally opens an incident for the applicable support request to the time of attempted first contact with the Reseller or Subscriber pursuant to defined escalation procedures.

Remedy: If during any calendar month, Accucom fails to respond in accordance with the applicable objective above for the particular support situation, upon the Client’s request, Accucom will issue a credit in the amount of \$100 for each such failure during such month. In no event will the aggregate amount credited under this SLA and any other SLAs covering the affected Services in any calendar month exceed the recurring base monthly fee paid for such affected Services for such month.

D. Time to Initiate Data Restoration From Data Protection Services

Objective: During any calendar month, the data protection infrastructure will be available to initiate the restoration of any Service Provider or Client requested data.



- Definition:** Data restoration means the ability to successfully initiate a restore within 60 minutes of restoration request. Restore initiation shall be identified as the time at which the first byte of Subscriber data is written to the restoration target.
- Measurement:** Accucom will measure success of data restoration initiation based upon reporting of the restoration request and initiation start times. Accucom and our upstream partners use software tools that identify and retain this information for reporting and performance measurement purposes.
- Remedy:** if the time to initiate a data restore exceeds 60 minutes then Accucom will issue a credit in the amount of 25% of the recurring base monthly fee paid by the Client for the data protection services. In no event will the total amount credited under this Service Level Agreement in any calendar month exceed the base monthly recurring fee paid for the Data Protection Services for such month.

E. General SLA Remedy Provisions

The credits reflected herein shall be the Client's sole remedy if Accucom fails to meet a defined objective during the term of affected agreement. The Client is only eligible to receive an SLA credit for the primary or root cause SLA failure and only for the affected Services specifically identified in the remedy paragraph for such SLA; Client is not eligible to receive a credit for any other SLA failure(s) that flow(s) from, is/are caused by or is/are otherwise related to or associated with the primary or root cause SLA failure. In order to receive a credit reflected herein, the Client must submit a request through the Service Provider within seven days of the SLA failure to which such credit request relates. Each request must include the Client account number, the description of the SLA failure and the dates and times of the SLA failure. Metrics or statistical information provided by the Client concerning the applicable SLA and the reported failure will be evaluated by Accucom. Accucom and its upstream partners own metrics and statistical information will govern the final determination regarding whether any SLA failure occurred. If the unavailability or other SLA failure is confirmed by Accucom and Client is not in breach of the Agreement (including any of its payment obligations) at the time of such unavailability or other SLA failure, the applicable credit will be applied within two billing cycles after Accucom's receipt of the credit request. Credits are not refundable or transferrable and can only be applied to the next subsequent future billing charges until SLA credits are consumed.

Aggregate remedies (availability, network latency and support remedies) for a Billing Period cannot exceed the aggregate fees paid by the Client for the corresponding Agreement's preceding Billing Period.

Accucom shall not be responsible for the failure to meet an SLA to the extent the failure is caused by:

- a) a breach of the Agreement on this or any other Addendum by the Client;
- b) Subscriber data content or application programming, acts or omissions of the Client, or their employees or agents, or failures of equipment, software or facilities provided by another Reseller or Service Provider;
- c) Client use of unsupported software or hardware releases;
- d) software or hardware failures resulting from the Client rejection or delay in implementation, for any reason, of an update, patch configuration change, maintenance change or repair recommended by Accucom or its upstream partners;
- e) any Scheduled Maintenance or Emergency Maintenance (including, without limitation, upgrades, repairs or component replacements) or other mutually agreed-to downtime; any network outage, downtime or other unavailability due to causes outside of Accucom's control, such as failure of communications networks; or (g) any event of force majeure as described in the Agreement. Accucom will use commercially reasonable efforts to coordinate the resolution of the failure with the appropriate third part vendor.

As used herein, the term "Scheduled Maintenance" means upgrades, repairs, replacements or other modifications made for any purpose (including, but not limited to, to accommodate evolving technology and/or increased demand or to provide enhanced but equivalent [or alternative] services) to the facility, Accucom's service delivery infrastructure used to provide the Services set forth on the Agreement(s). All Scheduled Maintenance activities occur during the "Maintenance Window" identified as an average period of lowest Subscriber activity on a per-service basis in the time zone where the service delivery infrastructure is located.

The term "Emergency Maintenance" means critical unforeseen maintenance needed for the security or performance of Subscriber's configuration and/or Accucom's service delivery infrastructure.

F. Certain Obligations of The Parties

1. Maintenance Notification. Accucom will notify Clients of any required Scheduled Maintenance to Accucom's or its upstream partners; service delivery infrastructure a minimum of 14 calendar days prior to the date identified to perform the Scheduled Maintenance, except in the event of an emergency upgrade (which Accucom will make as promptly as practicable as part of Emergency Maintenance), Accucom and its upstream partners will perform all Scheduled Maintenance during the Maintenance Window. Accucom will

use reasonable efforts to contact Client's technical personnel prior to performing any Emergency Maintenance to Accucom's or its upstream partners Services delivery infrastructure. It is the responsibility of the Client to ensure that all parties who require maintenance notifications are kept up to date in the Accucom portal.

2. Access to Services Administration. Accucom will manage all system administration and device passwords for its service delivery infrastructure; Service Providers or Clients will have no access to such infrastructure.
3. Security. Clients acknowledge and agree that the security solutions provided as part of the services (including as described in the agreement) including clause D do not guarantee 100% network security or prevent security incidents, are not intended to be a comprehensive security solution are services for which Accucom limits its liability and disclaims warranties to the extent provided in that agreement.
4. Subscriber-Provided Materials. Except as expressly provided in the Agreement, Accucom will not have any responsibility for any content, data, or Clients Provided Materials. The Client will not be permitted to locate any equipment at the Accucom or its upstream partner's data centre without purchasing the appropriate service. Clients agree that they will make and maintain current backup copies of all content and data.
5. Use of Software. Clients will properly train their personnel in the usage of the Software and agrees use the Software only in connection with permitted use of the Services and only in accordance with the end user licence agreement applicable to such Software. The Client is solely responsible for any damage to the Software and any degradation in outage of the Services due to acts or omissions of their staff, their agents or third-party providers, including, without limitation any such issues arising in connection with the installation of any Software or upgrades, patches, hot fixes and other updates the Software, or the addition, deletion or modification of any Subscriber-Provided Material. Any degradation in or outage of the Services as a result of the foregoing acts or omissions shall be excepted from measurement under any applicable SLA.
6. Bandwidth Usage. Accucom's Internet Services provide Clients with a dedicated IP connection with a committed data transfer capacity (as defined in the Service Order). Monthly charges are based on contracted Internet Service usage. When a usage cap is defined in the service agreement, any applicable charges incurred during the prior billing period will be determined using data transfer measurement taken every five minutes over the course of a month. The actual overage charges will be based on the 95th percent measurement of actual usage minus the contracted Transit charges.
7. IP Numbers and Addresses. Accucom shall maintain and control ownership of all IP numbers and addresses that may assigned to Clients by Accucom and Accucom reserves, in its sole discretion, the right to change or remove any and all such numbers and addresses; provided, however, that:
 - i. Accucom will provide the Client with at least thirty days prior written notice any such change or removal and
 - ii. The Client agrees to provide Accucom with all reasonably requested assistance to effect a such change or removal.
8. Authorised Personnel and Escalation. Service Provider shall also provide to Accucom (and keep current) via Accucom's portal:
 - i. A list of personnel that are authorised to act on behalf of Subscriber in connection with the Services (the "Authorised Access List) including requesting any changes to or any support in connection with such Services, and
 - ii. Escalation procedures within the Client's organisation for resolving matters related to the Services. Only persons on the Authorised Access List may open trouble tickets with respect to the Services or otherwise obtain support or other information from Accucom support concerning such Services. If Accucom's personnel or systems are unable to reach the contacts as set forth in the authorised access list, Accucom will escalate its notification according to instructions set forth in the Client-provided escalation procedures.
9. Post Termination Data Access. A Client may elect to store their data within the service delivery infrastructure for a time period that exceeds the contractual term. This data will be retained in immutable form for so long as the Client continues to pay for the fees associated with storing this data and the access mechanism used to reach it. In the event the Client defaults any of its contractual obligations a remediation of period of no less than 60 days will be presented to the Client during which time the associated data will continue to be accessible in a read-only format.
10. Data Destruction. Accucom or its upstream partner's will dispose of all Client data using a process consistent with the NIST standard. Except as described in the Agreement, prior to any data being destroyed Accucom will secure written approval from the Subscriber. The Client can determine the overall retention period of the data in accordance with the terms outlined in above.
11. Client Provided Encryption. The Client is responsible for maintenance of all Client provided data encryption technology and to protect all data encryption keys used to encrypt the data with this encryption technology. Accucom will provide assistance to a Subscriber that has lost an encryption key but at no time is Accucom responsible for the recovery of a lost encryption key.



Signed as an Agreement.

Signed by **Customer Name**

Name of Signatory

Signature

Position

Date

Signed by **Accucom Systems Integration Pty Ltd**

Name of Signatory

Signature

Position

Date