

TECHBRAIN GENERAL TERMS AND CONDITIONS BETWEEN TECHBRAIN AND CUSTOMER

(hereafter each referred to as a Party and together, the Parties.)

The provision of goods and services by TechBrain Pty Ltd as Trustee for the Keegan Family Trust, ABN 84 108 360 350 (TechBrain) to the aforementioned company, trust, partnership or individual(s) (Customer) is subject to the following Terms and Conditions. By receiving any goods and / or services from TechBrain, the Customer agrees to purchase from TechBrain and TechBrain agrees to provide the Goods and Services in accordance with the requirements, terms and conditions specified in this Agreement. These terms and are current as at 1st November 2020.

RECITALS

- A. The Customer wishes to engage TechBrain and TechBrain agrees to provide ongoing information technology (IT) management and support Services (as defined below) to the Customer for the Term of this Agreement.
- B. The Parties now wish to record the terms and conditions of their agreement in respect of the provision of the Services.

NOW IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement unless the context requires otherwise, the following terms shall apply:

Ad Hoc Services means those services provided by TechBrain to the Customer which do not comprise nor form a part of the Agreement Services (as defined) or the Excluded Services (as defined) and which for the avoidance of doubt are more specifically set out in Schedule 1 to this Agreement and shall be charged to the Customer at the applicable Hourly Rate;

Agreement means this document and all schedules and annexures to this Agreement;

Agreement Services means those services provided by TechBrain to the Customer, as per the terms and conditions of this Agreement, which for the avoidance of doubt are more specifically set out in Schedule 1 to this Agreement;

Commencement Date means the date on which the Customer executes this Agreement;

Confidential Information means:

- (a) all information and materials of or concerning a disclosing party or any of the disclosing party's business or any of the disclosing party's related body corporates including the shareholders of the disclosing party, all commercial, financial, legal and technical information and know-how directly or indirectly related to the business or affairs of the disclosing party, or any of the disclosing party's related body corporates;
- (b) which is disclosed by or on behalf of the disclosing party to the recipient; or
- (c) which comes to the knowledge of the parties or any of the parties' representatives which the parties know is confidential;
- (d) all information, materials and documents at any time made available to a recipient by a disclosing party or its advisors;
- (e) the contents of any discussions or agreements between the Parties relating to the Services;

(f) the terms, conditions and existence of this Agreement;

but does not include information which:

(g) at the time of first disclosure to the recipient was in the public domain;

(h) after disclosure to the recipient comes into the public domain otherwise than by disclosure in breach of the terms of this Agreement;

(i) was known to or by the recipient at the time of first disclosure to it and was not acquired directly or indirectly from the disclosing party; and

(j) the recipient receives from a third party, only where the information was not obtained directly or indirectly from the disclosing party in breach of any obligation of confidence owed by the third party to the disclosing party or any other party.

CPI means the Consumer Price Index compiled by the Australian Bureau of Statistics for Perth (Capital City) area (All Groups);

Customer means the entity as specified on the TechBrain Application to Trade and also includes the entity that is paying for the Services;

Excluded Services means those services provided by TechBrain to the Customer which do not comprise nor form a part of the Agreement Services (as defined) or Ad Hoc Services (as defined) and which for the avoidance of doubt are more specifically set out in Schedule 4 to this Agreement;

Fees means the collective and total fees (exclusive of GST) payable by the Customer for the Agreement Services and any Ad Hoc Services and/or work performed to address a specific Excluded Service, including but not limited to the Monthly Service Fee and any Hourly Rate charged for Ad Hoc Services or Excluded Services;

Hourly Rate means the amount to be charged for each and every hour (or portion thereof) that TechBrain provides services to the Customer, specifically in respect of the Ad Hoc Services and/or Excluded Services, as set out in Schedules 1 and 3 of this Agreement with rates defined in Schedule 4;

Incident means an unplanned interruption to the IT devices and or networks of the Customer;

Monthly Service Fee means the fee for services provided by TechBrain to the Customer which form part of the Agreement Services (as defined) and which for the avoidance of doubt are more specifically set out in Schedule 1 to this Agreement.

Party or **Parties** means either or all the parties to this Agreement;

Problem is the cause of one or more Incidents;

Resolution means restoring the IT service to a state where it has no or little business impact on the Customer;

Schedule means a schedule to this Agreement and **Schedules** means all the schedules to this Agreement;

Staff Member means an employee, contractor or consultant, whether full-time or part-time, of TechBrain;

Service Request is a request for assistance to address a Service or an Ad Hoc Service, received by TechBrain from the Customer either directly, from a third party or because of issues generated from any maintenance or monitoring activities conducted by TechBrain;

Support Devices means the number of server, desktop, tablet and notebook client devices included in the Fee Proposal section of this Agreement

Term means the term of this Agreement, as set out in clause 2;

User means an employee, contractor or other person working for the Customer; and

Work Approval means an approval for TechBrain to deliver an Ad-Hoc or Excluded Service, as issued by an authorised representative of the Customer, in accordance with Item 9 of Schedule 2 to this Agreement.

1.2 In this Agreement headings and bolding are for convenience only and do not affect the interpretation of this Agreement, unless the context otherwise requires:

- (a) a word which denotes the singular denotes the plural and vice versa, and any gender denotes the other genders;
- (b) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (c) a reference to a recital, clause, schedule, annexure or exhibit is to a recital, clause, schedule, annexure or exhibit of or to this Agreement;
- (d) a reference to any Party to this Agreement or any other document or arrangement includes that Party's executors, administrators, substitutes, successors and permitted assigns;
- (e) any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation;
- (f) any other Agreement or instrument, where amended or replaced, means that Agreement or instrument as amended or replaced;
- (g) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (h) a reference to a 'related body corporate' of a body corporate is to a body corporate which is related to that body corporate within the meaning of section 50 of the Corporations Act 2001 (*Cth*);
- (i) a business day means a day other than Saturday or Sunday on which banks are open for general banking business in the state where the Customer has their principal place of business; and
- (j) a reference to 'dollars' or '\$' is to the currency of Australia.

2. TERM

This Agreement shall commence on the Commencement Date and continue until termination in accordance with the provisions set out in Clause 11 of this Agreement.

3. PROVISION OF SERVICES

- 3.1 TechBrain agrees to provide the Services, Ad Hoc Services and Excluded Services to the Customer in accordance with the terms and conditions as set out in this Agreement.
- 3.2 TechBrain will provide the full range of Services to the Customer, after completion of the onboarding process as set out in the quotation documents provided by TechBrain and accepted by the Customer (hereafter referred to as **On Boarding**).
- 3.3 In the period between the Commencement Date and the completion of On Boarding, the Customer agrees that TechBrain will provide the Services on a best endeavours basis.
- 3.4 The Customer acknowledges and agrees that the Ad Hoc Services as specified in Schedule 1 are to be considered additional services and do not comprise the Agreement Services. As such, the Parties agree that the Customer shall pay additional fees in order to access the Ad Hoc Services and that these amounts shall be charged at the Hourly Rate set out in Schedule 2.
- 3.5 The Customer acknowledges and agrees that the Excluded Services as specified in Schedule 3 are to be considered optional services and do not comprise the Services. As such, the Parties agree that the Customer shall pay additional fees in order to access an Excluded Service and that these amounts shall be charged at the same Hourly Rates as set out in Schedule 2 for Ad Hoc Services.

4. FEES AND CHARGES

- 4.1 The Customer agrees to pay to TechBrain the Fees for the Agreement Services, the Ad Hoc Services and any Excluded Services in accordance with the payment terms as set out in Schedule 4 to this Agreement.
- 4.2 The Customer agrees that fees paid for Agreement Services, and based on a count of devices, will be adjusted as and when TechBrain, the Customer or any other provider installs or decommissions devices used in the calculation of fees.
- 4.3 The Customer agrees that any services falling outside of the scope of the Agreement Services, such as those identified as Ad Hoc Services (and as specified in Schedule 1 of this Agreement) or an Excluded Service (as specified in Schedule 3 to this Agreement) will be chargeable at the prevailing Hourly Rate set out in Schedule 4 (or as otherwise varied pursuant to clause 4.4 below), unless otherwise mutually agreed in writing in advance between the Parties.
- 4.4 TechBrain may at its sole discretion increase the Fees, Hourly Rates or other related charges on 1 July of each year of this Agreement (or at such other time it deems appropriate), by an amount which shall not exceed the greater of three per cent (3%) or CPI only.

5. DELIVERY OF SERVICES

- 5.1 TechBrain will deliver the Agreement Services, the Ad Hoc Services and any Excluded Services to the Customer:
- (a) in accordance with its reasonable endeavours;
 - (b) in a professional manner and with due care and skill;
 - (c) promptly in response to the Customer's requests and in accordance with any service response timeframes set out in this Agreement;
 - (d) in compliance with all laws; and
 - (e) otherwise in accordance with this Agreement.
- 5.2 The Customer will ensure that during TechBrain's delivery of the Services, the Ad Hoc Services and the Excluded Services, the Customer and its employees and contractors shall:

- (a) cooperate with TechBrain's personnel and authorised representatives;
- (b) provide TechBrain's personnel, contractors and authorised representatives with access to the Customer's IT systems (as is only limited to the requirements of the Services or the Ad Hoc Services); and
- (c) provide all other reasonable assistance to TechBrain,

as may be required to enable TechBrain to perform its obligations under this Agreement and any applicable law or regulation.

5.3 Limitations of Liability

- (a) To the extent permitted by law, TechBrain's liability in respect of the Services and the Ad Hoc Services, is limited to:
 - (i) the re-supply of the Agreement Services, Ad Hoc Services or the Excluded Services; or
 - (ii) the cost of the supply of the Agreement Services, Ad Hoc Services or the Excluded Services by a third party but only to the extent, in aggregate, of the Monthly Service Fee received by TechBrain from the Customer for the collective two month period preceding the event giving rise to the cause of action. In the event that the cost should exceed this amount, the Customer shall remain liable for any amounts over and above the threshold set out in this subclause 5.3(a)(ii). In no event shall TechBrain's total liability to the Customer for all damages, losses and causes of action (whether in contract, tort or otherwise) exceed the Monthly Service Fee received by TechBrain from the Customer for the collective two month period preceding the event.
- (b) To the extent permitted by law, and notwithstanding any other provisions in this Agreement, in no event will either Party be liable for economic loss of the other Party including loss of profits, downtime costs, loss of revenue, loss of reputation or any indirect or consequential loss arising out of or in connection with the Agreement, howsoever caused.
- (c) TechBrain may from time to time, in providing the goods and services to the Customer, use third party hardware, software and services and in such circumstances the Customer acknowledges and agrees that TechBrain is not the manufacturer or developer of the third party hardware software or services and provides no warranty as to the suitability, functionality or quality of the third party goods and services. The Customer agrees that TechBrain has no liability to the Customer arising from the use of third party goods and services and indemnifies TechBrain against any claim, action, damage, loss, cost, charge or other expenses incurred by TechBrain as a result of TechBrain providing those third party goods and services to the Customer.

6. INDEMNITY

To the extent permitted by law, the Customer indemnifies TechBrain against any claim, action, damage, loss, liability which TechBrain incurs or is liable for in connection with:

- (a) liability for any death, injury or damage to any person or property arising from the provision of products or the Services, where directly caused by or contributed to by the Customer's negligent or wilful act or omission;
- (b) any claim for breach of intellectual property rights arising in connection with the provision of the Services;

- (c) any loss arising from any part of this Agreement being void, voidable or unenforceable for any reason;
- (d) anything done by TechBrain in exercise or purported exercise of its rights under this Agreement; and
- (e) any breach by the Customer of its obligations under this Agreement including any failure to insure.
- (f) any loss, cost, charge or liability arising from a cyber breach; and
- (g) or from the use of third party goods and services provided by TechBrain.

Each indemnity in this clause 6 is a separate and independent obligation and continues after termination of this Agreement.

7. RESTRAINTS

- 7.1 The Customer undertakes that it will not, either directly or indirectly or through any related body corporates, without the prior written consent of TechBrain:
- (a) employ, engage or retain; solicit or attempt to employ;
 - (b) or purchase any goods or Services from,
- any staff member of TechBrain who has been involved in providing the Services, Ad Hoc Services or the Excluded Services to the Customer.
- 7.2 The restriction in clause 7.1 applies for the following periods:
- (a) during the entire time the Customer receives any services from TechBrain; and
 - (b) the later of 6 months following the provision of any services by TechBrain; or
 - (c) 6 months following the cessation of the Staff Member's employment with TechBrain.
- 7.3 The restriction in clause 7.1 applies to the Customer acting either alone or in partnership or association with another person or business; as principal, agent, representative, director, officer or employee; as member, shareholder, debenture holder, noteholder or holder of any other security; as trustee of or as a consultant or adviser to any person (other than the Customer); or in any other capacity.
- 7.4 The Customer and TechBrain each acknowledge that the restriction in this clause 7 is a fair and reasonable restriction considering TechBrain's relationship with its employee(s).
- 7.5 In the event that the Customer breaches the restraint contained in this clause 7, the Customer shall pay to TechBrain an amount equal to the annual base salary plus superannuation payable to the employee by TechBrain immediately before the employee was employed, engaged, retained, solicited, offered employment by or provided goods or services to the Customer regardless of the extent of provision of goods or services to the Customer. It is expressly acknowledged and agreed that the amount referred to in this clause 7.5 is a genuine pre-estimate of the loss which would be suffered by TechBrain because of the Customer's breach of the restraint.
- 7.6 Where TechBrain provides the services of a Staff Member to the Customer and the Customer subsequently provides the services of that Staff Member to a third party client of the Customer as part of business transaction undertaken by the Customer, then the Customer must take all reasonable steps to ensure that the client of the Customer does not, directly or indirectly, without

the prior written consent of TechBrain employ, engage or retain, solicit or attempt to employ, or purchase any goods or services from that Staff Member.

- 7.7 Should the circumstances envisaged by clause 7.6 arise, the Customer will pay to TechBrain an amount equal to the annual base salary plus superannuation payable to the employee by TechBrain immediately before the employee was employed, engaged, retained, solicited, offered employment by or provided goods or services to the client of the Customer regardless of the extent of provision of goods or services to the client of the Customer.

8. CONFIDENTIALITY

- 8.1 No Party may, at any time, disclose the terms and conditions of this Agreement or disclose any trade secrets, know-how, customer lists, pricing, policies, operating methods and processes, research projects or other information normally considered to be trade secrets or confidential information of the other party, to any third party without obtaining the prior written consent of the relevant party.

- 8.2 TechBrain must at all times:

- (a) use solely for the purposes of the provision of the Agreement Services and the Ad Hoc Services;
- (b) keep strictly confidential;
- (c) treat as secret and confidential;
- (d) not copy or disclose to any person without the prior written consent of the Customer; and
- (e) maintain secure custody of,

all Confidential Information.

- 8.3 TechBrain must ensure that each member of its staff involved in the provision of the Services and the Ad Hoc Services or in receipt of Confidential Information complies with the obligations set out in clause 8.1.

- 8.4 Without limiting this clause 8, to the extent that the Confidential Information includes information about an individual or from which the identity of an individual is reasonably ascertainable, TechBrain will comply with and, for the purposes of this Agreement is deemed bound by, the provisions of the applicable Australian privacy legislation and any applicable code of practice with respect to any act done or practice engaged in by TechBrain for the purpose of this Agreement, in the same way and to the same extent as the Customer would have been bound by them in respect of that act had it been directly done by or engaged by the Customer.

- 8.5 This clause 8 is a continuing obligation and survives termination of the Agreement.

9. PRIVACY

During the Term of this Agreement, TechBrain shall ensure that TechBrain, its employees and contractors will all comply with and be bound by the provisions of its Privacy Policy in respect of any personal information disclosed (or otherwise imparted) by the Customer to TechBrain.

10. INSURANCE

During the Term of this Agreement, TechBrain will (at its own expense) maintain appropriate and reasonable levels and terms of insurance in respect of professional indemnity, public liability and workers compensation insurance, for the benefit of itself and the Customer.

11. TERMINATION

11.1 Early Termination

As at the Commencement Date of this Agreement, the Customer may choose to terminate this Agreement prior to completion of On Boarding upon which the full On Boarding Fee payable in respect of the On Boarding process shall become immediately payable to TechBrain.

11.2 Termination

Either Party may terminate this Agreement without cause by giving 90 calendar days written notice to the other Party.

11.3 Obligations on Termination

If this Agreement is terminated:

- (a) the Agreement Services shall continue to be provided by TechBrain to the Customer up to the date of termination;
- (b) outstanding monies due and payable owing by the Customer to TechBrain up to the date of termination shall be due and payable by the Customer;
- (c) subject to all outstanding amounts being paid in full by the Customer, TechBrain must return to the Customer, as soon as practicable after termination, any material obtained or created by (or on behalf of) the Customer in the course of providing the Agreement Services, the Ad Hoc Services or the Excluded Services, including all Confidential Information.

11.4 Non-payment

- (a) In the event that any sum due under this Agreement is not paid by the due date without prejudice to TechBrain's other rights and remedies, TechBrain reserves the right to terminate the Agreement with immediate effect and charge interest on such sum on a day-to-day basis (as well as before any judgement) from the date the payment was due to the date of actual payment (both dates inclusive) at the rate of 2 % above the Corporate Overdraft Reference Rate of Commonwealth Bank of Australia.
- (b) Interest shall be paid by the Customer upon TechBrain's demand, pursuant to clause 11.4(a). The Customer shall also be liable for all costs and expenses incurred by TechBrain in the recovery of all sums due from the Customer under this Agreement; and TechBrain shall additionally invoice a late payment charge of \$200 for any late payment due under this Agreement by the Customer.
- (c) In the event any sum due under this Agreement is not paid by the due date and TechBrain demands payment from the Customer, until the Customer settles the outstanding payment TechBrain may suspend the provision of the Services or the Ad Hoc Services but TechBrain must reinstate the Services and the Ad Hoc Services immediately upon payment of the outstanding sum due to it.
- (d) Where TechBrain suspends its Services to the Customer under clause 11.4 (c), the Customer may not enforce any part of this Agreement that requires TechBrain to provide Services to the Customer.

- 11.5 Any termination of this Agreement pursuant to this clause 11 shall be without prejudice to any other rights or remedies a Party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either Party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

12 GENERAL

12.1 Variations

TechBrain, acting reasonably, may vary the terms of these General Terms and Conditions from time to time at its sole discretion by providing the Customer no less than 21 days notice. The Customer will be deemed to accept the variations to the General Terms and Conditions by continuing to engage the services of TechBrain, the latest version of which will be published at <https://www.techbrain.com.au/terms-and-conditions>

12.2 Waiver

- (a) Subject to any provision of this Agreement making time of the essence, failure to exercise or delay in exercising any right, power or privilege by any Party will not operate as a waiver of that right, power or privilege.
- (b) Any waiver by a Party of any one breach or default by the other will not constitute a waiver of any other breach or default. A waiver by either Party is only effective if it is in writing.

12.3 Force Majeure

Neither Party shall be liable to the other by reason of any failure of performance due under this Agreement (except obligations to pay) if such failure arises out of causes beyond that Party's reasonable control despite its reasonable efforts, and without the fault or negligence of such Party. Any Party experiencing such an event shall give notice as promptly as possible under the circumstances. If the Force Majeure continues for a period of 3 months either party may terminate the Agreement.

12.4 Entire Agreement

This Agreement contains the whole agreement between the Parties concerning the subject matter herein and supersedes any prior agreements or representations and no other agreements or understandings, verbal or otherwise, exist between the Parties except as specifically stated.

12.5 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts, taken together, shall constitute one instrument.

12.6 Relationship

The only relationship between the Customer and TechBrain is as independent contractors. TechBrain is not in any way an agent, partner or employee of the Customer.

12.7 Third party rights

The Parties agree that this Agreement is for the sole benefit of the parties specified above and is not intended to confer any legal rights or benefits on any third party and that there are no third-party beneficiaries to this Agreement or any part or specific provision of this Agreement.

12.8 Assignment or novation

The Customer agrees to an assignment of this Agreement from the Vendor to a third party provided that the proposed assignee agrees to be bound by the obligations on the part of the Vendor set out in this Agreement.

12.9 Severability

- (a) If any provision of this Agreement is declared by any judicial or other competent authority to be void, voidable or illegal, the remaining provisions shall continue to apply.
- (b) The Parties hereby agree to use best endeavours to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

12.10 Authorisation

The Customer acknowledges that the person signing this Agreement on its behalf is authorised to do so and may bind the Customer to all the terms and conditions contained herein and represents and warrants that such person is acting within the scope of his or her authority as an officer, director or duly authorised agent or employee of the Customer and that if requested by TechBrain will provide evidence to the satisfaction of TechBrain of the authority of the person signing this Agreement.

12.11 Governing Law

The Parties agree that this Agreement shall be construed in accordance with the laws in force in Western Australian and the Parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Western Australia.

SCHEDULE 1

SERVICES DESCRIPTIONS

The Services shall be considered to include the following types of activities to be provided by TechBrain to the Customer:

No.	Description	Details	Agreement	Ad-Hoc	
				Pre-Approved	Un-Approved
1.	On-Boarding	<ul style="list-style-type: none"> Initial Audit and Documentation of IT Environment. Initial Deployment of Centralised Services. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
2.	Server (Engineer) Support -- Remote	<ul style="list-style-type: none"> Identification and resolution of support incidents and problems that relate to managed server devices. Fulfilment of requests associated with the server device that are consistent with included support Services. Service provided remotely from a TechBrain Office 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
3.	Server (Engineer) Support -- On Site	<ul style="list-style-type: none"> Identification and resolution of support incidents and problems that relate to managed server devices. Fulfilment of requests associated with the server device that are consistent with included support Services. Service provided at the Customer's premises. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
4.	Networking Support -- Remote	<ul style="list-style-type: none"> Identification and resolution of Incidents and Problems that have or could impact the operation of the networking devices. Fulfilment of requests associated with the network device that are consistent with included support Services. Service provided remotely from a TechBrain Office. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
5.	Networking Support – On-Site	<ul style="list-style-type: none"> Identification and resolution of Incidents and Problems that have or could impact the operation of the networking devices. Fulfilment of requests associated with the network device that are consistent with included support Services. Service provided at the Customer's premises. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
6.	Desktop (Technician) Support - Remote	<ul style="list-style-type: none"> Identification and resolution of Incidents and Problems that have or could impact the operation of the desktop or laptop computer. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

		<ul style="list-style-type: none"> Fulfilment of requests associated with the desktop device consistent with included support Services. Connection of smartphones and tablets to corporate email and corporate wi-fi networks. Service provided remotely from a TechBrain Office. 			
7.	Desktop (Technician)Support -- On-Site	<ul style="list-style-type: none"> Identification and resolution of Incidents and Problems that have or could impact the operation of the desktop or laptop computer. Fulfilment of requests associated with the desktop device consistent with included support Services. Service provided at the Customer's premises. 	○	○	●
8.	Network Printing Support -- Remote	<ul style="list-style-type: none"> Identification and resolution of Incidents and Problems that have or could impact the operation of the network printer. Fulfilment of requests associated with the printing device consistent with included support Services. Excludes printer hardware support or faults e.g. drum/mirrors; consumables etc. Service provided remotely from a TechBrain Office. 	○	○	●
9.	Network Printing Support – On-Site	<ul style="list-style-type: none"> Identification and resolution of Incidents and Problems that have or could impact the operation of the network printer. Fulfilment of requests associated with the printing device consistent with included support Services. Excludes printer hardware support or faults e.g. drum/mirrors; consumables etc. Service provided remotely from a TechBrain Office. 	○	○	●
10.	Basic User Access Management	<ul style="list-style-type: none"> Identification and resolution of Incidents and Problems that have or could impact the ability of users to access systems and devices. Fulfilment of Service Requests associated with user access that are consistent with included support Services. These may include: email access, email creation, modification and deletion of accounts, basic group and folder structure implementation. This is limited to tasks estimated to take up to an hour. 	○	○	●

		<ul style="list-style-type: none"> This service includes the configuration of smartphones or tablets to connect to the Customer's corporate email or wi-fi systems. Service ONLY provided remotely from a TechBrain Office. 			
11.	Advanced User Access Management - Design and Development	<ul style="list-style-type: none"> Planning or designing access structures for managing access levels and groupings; Planning or designing an Active Directory structure. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
12	Server Monitoring	<ul style="list-style-type: none"> Provision of a software service agent for monitoring of: <ul style="list-style-type: none"> each of the Customer's managed servers; disk space/capacity; and memory and processor usage and health status. Monitoring of alerts generated when status of device changes. This service excludes: <ul style="list-style-type: none"> any monitoring which may be required outside of TechBrain's standard office hours. remedial action when issues found unless agreement includes Server Support. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
13.	Desktop Monitoring	<ul style="list-style-type: none"> Provision of a software service agent for monitoring of: <ul style="list-style-type: none"> each of the Customer's desktops and laptops; disk space/capacity; and health status. Monitoring of alerts generated when status of device changes. This service excludes: <ul style="list-style-type: none"> any monitoring which may be required outside of TechBrain's standard office hours. remedial action when issues found unless agreement includes Desktop Support. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
14.	Desktop Patch Management	<ul style="list-style-type: none"> Monthly application of Microsoft high priority security patches. Updates can include: <ul style="list-style-type: none"> Patches and security updates applied to Microsoft desktop and laptop computers under current support from Microsoft. Microsoft Office applications and suites under current support from Microsoft. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
15.	3 rd party Application Support	<ul style="list-style-type: none"> First level response of issues for non-Microsoft based applications, e.g. Xero, MYOB, Nitro PDF. This is limited to 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

		<p>diagnosis of an issue to identify if it is internal to the application or database;</p> <ul style="list-style-type: none"> • Escalation of issues to software vendor on behalf of the Customer; and • Minor incremental updates to software. • Major software upgrades are excluded. These are handled with vendor support personnel 			
16.	Backup Monitoring	Backups checked every business day	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
17.	TechSure Security	<ul style="list-style-type: none"> • Define and develop security policies (non-human resource related) • Security related group policy management to enforce security policies across the organisation. • Annual security audit • TechBrain reserves the right to charge for or limit or exclude any Services required for: <ul style="list-style-type: none"> training <ul style="list-style-type: none"> ○ defining and developing security policies; ○ security related Customer policy management to enforce security policies across the organisation; and ○ annual security audits. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
18.	vCIO / IT Management	<ul style="list-style-type: none"> • IT strategy and management; • Ensuring technology is aligned with the Customer's business needs; and • Annual budgeting assistance. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
19.	Remote Health Checks	<ul style="list-style-type: none"> • Monthly application of Microsoft high priority security updates • Remote health checks of servers using TechBrain proactive checklist to ensure potential issues • TechBrain may use discretion to conduct these out-of-hours at no-charge to Customer. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
20.	NetAdmin Quarterly Half Day	<ul style="list-style-type: none"> • 4 hour allocation of time per quarter for problem identification, compliance checks and improvements as per the TechBrain standard NetAdmin checklist. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
21.	NetAdmin Monthly Half Day	<ul style="list-style-type: none"> • 4 hour allocation of time per month for problem identification, compliance checks and improvements as per the TechBrain standard NetAdmin checklist. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
22.	NetAdmin Monthly Full Day	<ul style="list-style-type: none"> • 8 hour monthly allocation of time for problem identification, compliance checks and improvements as per the TechBrain standard NetAdmin checklist. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
23.	Endpoint Security	<ul style="list-style-type: none"> • TechBrain Managed antivirus integrated with monitoring system. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
24.	Email Filtering	<ul style="list-style-type: none"> • TechBrain External Email filtering service provided as a service.. 	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

25.	Data Breach Notification	<ul style="list-style-type: none"> • Identification, containment and remediation for infrastructure and data on supported devices covered under the fixed monthly fee. • Excludes time spent by TechBrain in respect of investigating and reporting such breaches to the Office of the Australian Information Commissioner. 	○	○	●
25.	Standard On-Call	<ul style="list-style-type: none"> • Standard On Call refers to the time period where a suitably skilled engineer is contactable by the Customer via the TechBrain support number. The service operates on a call back basis. • TechBrain provides this service during the days and times specified. • Monday to Friday: • During TechBrain's normal Support Hours (as defined in Item 1., Schedule 2); and • during the hours of 7.00am to 8.00am and 5.00pm to 7.00pm WST (excluding WA public holidays). • Saturdays: • 9.00am and 1.00pm WST (excluding WA public holidays). 	○	○	●
26.	Extended On-Call	<ul style="list-style-type: none"> • Extended On-Call to the time period where a suitably skilled engineer is contactable by the Customer via the TechBrain support number. The service operates on a call back basis. • Monday to Friday: • During TechBrain's normal Support Hours (as defined in Item 1., Schedule 2); and • during the hours of 6.00am to 8.00am and 5.00pm to 9.00pm WST (excluding WA public holidays). • Weekends and Public Holidays between the hours of 9.00 am and 5.00 pm except for Good Friday, Easter Sunday, Christmas Day, Boxing Day 	○	○	○
27.	IP Tel (3CX) Support	<ul style="list-style-type: none"> • Identification and resolution of Incidents and Problems that have or could impact the operation of the 3CX VOIP System. • Fulfilment of requests associated with the 3CX VOIP system consistent with included support Services. • Service provided remotely or on-site at the Customer's premises. 	○	○	●

SCHEDULE 2

PROVISION OF SERVICES AND AD HOC SERVICES

The Services and the Ad Hoc Services shall be delivered by TechBrain to the Customer on the following terms and conditions regarding service levels:

Service Level	Description	Other Details
1. Support Hours	Normal support hours are considered to be the period between 8.00am and 5.00pm WST, each Monday to Friday but exclude weekends and public holidays (the Support Hours).	Agreement Services or Ad Hoc Services provided outside of the defined Support Hours are considered to require Out of Hours support and may be chargeable in accordance with the provisions set out for these services under Schedule 1 and Schedule 2 unless the Customer has purchased and requires Support in accordance with Standard On-Call.
2. Out of Hours Support	<ul style="list-style-type: none"> • Any Agreement Service, Ad Hoc Service or Excluded Service which is delivered to the Customer by TechBrain outside of the hours between 8.00am to 5.00pm WST, each Monday to Friday (excluding weekends and WA Public Holidays) shall be considered as TechBrain providing Out of Hours support and shall not be covered by this Agreement unless otherwise specified in the provisions of Schedule 1. • The provision of Out of Hours Support by TechBrain to the Customer shall further be limited to: <ul style="list-style-type: none"> ○ Monday to Fridays between the hours of 6.00am to 7.00 am WST; ○ Monday to Friday between the hours of 5.00pm and 9.00pm WST; and ○ Weekends and WA public holidays between the hours of 9.00am and 5.00pm WST except for Good Friday, Easter Sunday, Christmas Day, Boxing Day. • TechBrain reserves the right not to provide Out of Hours support. • TechBrain reserves the right to charge for any Out of Hours support, at the Hourly Rates set out in Schedule 2 of this Agreement. Any waiver of fees for Out of Hours support is solely at the discretion of TechBrain. 	

Service Level	Description	Other Details
4. Contacting TechBrain	<p>Unless urgent, Incidents or Service Requests should be advised by email to: support@techbrain.com.au.</p> <p>If an incident or Service Request is urgent, the Service Desk can be contacted on (08) 9201 2340.</p>	
5. Prioritising support	<ul style="list-style-type: none"> • Incidents and Service Requests are prioritised according to TechBrain's assessment of the business impact of the Incident or the Service Request of the Customer. • All Incidents or Service Requests are prioritised on logging with TechBrain. • From time-to-time this may mean telephone calls are not handled immediately. 	
6. Service outside of metropolitan areas	<p>Onsite support required outside of the Perth metropolitan area will incur additional fees. Such fees will be discussed prior to work commencement for approval by the Customer.</p>	
7. Response times	<p>Response Time is the time from when an Incident or Service Request is first logged by TechBrain and the first contact by TechBrain with a User of the Customer.</p> <p>Where possible TechBrain shall respond to all Incidents or Service Requests with an email or a telephone call within 1 hour of being notified of the requisite Incident or Service Request by a User of the Customer.</p>	
8. Resolution times	<p>Resolution Time is the time from when an Incident or Service Request is first logged by TechBrain and the Incident or Service Request is resolved.</p> <p>TechBrain is not able to guarantee Resolution Times.</p>	

Service Level	Description	Other Details
9. Work approvals	<ul style="list-style-type: none"> • Where work to be conducted is an Excluded Service as per Schedule 3, the Excluded Service shall not be commenced until a Work Approval (as defined) is received from the Customer. • Where a Customer issues a Work Approval, TechBrain reserves the right to request that the Work Approval be provided by email from an authorised person. • Where a User requests a Service that requires a Work Approval, TechBrain will advise the User that work cannot proceed until a Work Approval is received. • The Customer is responsible for ensuring Users know the approval process and how to obtain a Work Approval within their business. • TechBrain shall not be responsible for obtaining any Work Approval/s for or on behalf of the Customer. 	
10. Cancellation of Appointments	<ul style="list-style-type: none"> • Where a Customer requests or agrees to a TechBrain visit to their site, location or office, and cancels the visit within 24 hours of the scheduled time, TechBrain reserves the right to charge a cancellation fee. • The cancellation fee may be up to one hour for onsite visits with a round trip travel distance of 50kms and the equivalent full fee rate for the duration of the scheduled appointment for other onsite visits, at the hourly rate defined in Schedule 4 	

SCHEDULE 3

EXCLUDED SERVICES

The Services and the Ad Hoc Services to be delivered by TechBrain to the Customer shall specifically exclude the following activities (collectively the **Excluded Services**):

Excluded Service	Description
1. Non-Supported devices	TechBrain reserves the right to charge for or limit or exclude any Services or Ad Hoc Services to be provided to Support Devices that are not covered by this Agreement.
2. Changes by the Customer	TechBrain reserves the right to charge a fee for, or limit or exclude any Services due to: <ul style="list-style-type: none"> • the Customer or third party moving equipment; • the Customer purchasing equipment from a supplier other than TechBrain; or • the Customer or a third party making changes to the Customer's IT system.
3. 3 rd party hardware support	TechBrain reserves the right to charge for or limit or exclude any Services for devices that are not covered under the Services or Ad Hoc Services, as set out in Schedule 1 to this Agreement, or for which a fee is not specified in Schedule 5 to this Agreement.
4. Installation and decommissioning	TechBrain reserves the right to charge for or limit or exclude any Services for: <ul style="list-style-type: none"> • installations and configurations related to new devices, new parts of devices, new software or upgraded Services, whether purchased from TechBrain or not; • decommissioning and removal of devices; • installation of software on new devices; • migration of user profile settings as part of installation of new computer or laptop.
5. Office moves	TechBrain reserves the right to charge for or limit or exclude any Services relating to an office move of the Customer. Office moves are defined as an office relocation and the movement of IT equipment within a Customer's environment and includes the movement or migration of data.
6. Non TechBrain supported equipment	TechBrain reserves the right to charge for or limit or exclude any Services for equipment that is out of warranty and/or not maintained in accordance with TechBrain's recommendations.
7. Non TechBrain supported applications	TechBrain reserves the right to charge for or limit or exclude any Services for applications which are not approved for integration with TechBrain's monitoring and management platform.
8. Illegally licensed applications	TechBrain reserves the right to charge for or limit or exclude any Services for applications for which the Customer does not have an up to date licence or was unlawfully acquired and/or does not comply with all relevant laws.

Excluded Service	Description
9. Problem resolution	<p>TechBrain reserves the right to charge for or limit or exclude any services for Problem resolution.</p> <p>Problem resolution is defined as identifying, investigating and diagnosing the cause of one or more Incidents.</p> <p>Problem resolution can be very time consuming and may yield little in terms of value for the Customer.</p> <p>In exercising this right, TechBrain will consider the business impact of the Incidents, the frequency, the likelihood of identifying the root cause or Problem and the time required to identify the root cause or Problem.</p> <p>An example of a situation where problem resolution may be excluded is a situation where a PC is experiencing repeated incidents and it is beyond its recommended lifecycle age. TechBrain would recommend replacement of the device in this situation.</p>
10. Hardware support	<p>TechBrain reserves the right to charge for or limit or exclude any Services for hardware which is:</p> <ul style="list-style-type: none"> • identified to be faulty; • outside of its warranty term; and/or • greater than 5 years of age.
11. Projects	<p>Projects are defined as any addition, change, modification or removal of IT infrastructure components excluding desktops and laptops (being Customer devices) to and from the Customers' IT environment.</p> <p>Projects are Customer initiated because of TechBrain's recommendations or arising from the Customer's own activities.</p> <p>Projects have a defined start and end date, and typically involve more than eight (8) hours labour.</p>
12. Consulting Services	<p>Consulting Services are defined as the investigation, analysis and reporting associated with specific proposals as developed with the Customer.</p>
13. Application Development Services	<p>Application Development Services are defined as the development and customisation of software applications specifically scoped, designed, developed and implemented for the Customer.</p>
14. Web Development Services	<p>Web Development Services are defined as the development and customisation of web-based Services specifically scoped, designed, developed and implemented for the Customer.</p>
15. Third Party Services	<p>Third Party Services are defined as engaging third parties to conduct work on behalf of a Customer.</p>
16. Cabling and Electrical Services	<p>Cabling and Electrical Services is defined as the installation of cables or the supervision of cabling and electrical work on behalf of the Customer.</p>

SCHEDULE 4

FEES

The following Fees and payments shall be required to be paid by the Customer to TechBrain in respect of the Services and the Ad Hoc Services (where specified and as applicable):

Fee Description	Details																				
1. On Boarding Fee	<p>The On Boarding Fee is levied for the Services provided to audit and document the Customer's existing IT environment, to ensure efficiency and effective service can be provided by TechBrain.</p> <p>The On Boarding Fee is set out in annexed Proposal and shall become due and payable on the Commencement Date of this Agreement.</p> <p>TechBrain reserves the right not to commence On Boarding until the On Boarding Fee is paid by the Customer.</p>																				
2. Monthly Service Fee	<p>The Monthly Service Fee is calculated to provide the Services, based on the IT environment as at the date of the Proposal (as annexed).</p> <p>Changes in device counts because of auditing during On Boarding or changes to the number or nature of devices in the Customer's IT environment may result in changes to the Monthly Service Fee.</p> <p>Except as otherwise set out in Schedule 3 above, the initial monthly charges are listed under the section delineated as the 'Monthly Service Agreement', as set out in the annexed Proposal.</p> <p>The Monthly Service Fee is due and payable in advance by the Customer (along with any bank fees incurred) on or before the last day of the preceding month.</p>																				
3. Ad Hoc and Excluded Services	<p>The Ad Hoc and Excluded Services shall be charged on the following basis by TechBrain to the Customer:</p> <p>(a) at an Hourly Rate exclusive of GST, as per the table below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Technical Level</th> <th style="text-align: center;">Business Hours</th> <th style="text-align: center;">Out of Hours 1.5 x</th> <th style="text-align: center;">Public Holidays 2.0 x</th> </tr> </thead> <tbody> <tr> <td>Desktop / Technician</td> <td style="text-align: center;">130</td> <td style="text-align: center;">195</td> <td style="text-align: center;">260</td> </tr> <tr> <td>System Administration, Server, IP Telephony</td> <td style="text-align: center;">165</td> <td style="text-align: center;">247.50</td> <td style="text-align: center;">330</td> </tr> <tr> <td>Cisco Support</td> <td style="text-align: center;">175</td> <td style="text-align: center;">262.50</td> <td style="text-align: center;">350</td> </tr> <tr> <td>vCIO / Consulting</td> <td style="text-align: center;">190</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> </tr> </tbody> </table> <p>(b) For any Ad Hoc Services provided during the support hours considered to be 'Out of Hours' as set out in Schedule 3, such Ad Hoc Services will be invoiced at 1.5 times the relevant Hourly Rate, excluding WA public holidays, which will be invoiced at 2.0 times the relevant Hourly Rate. A minimum charge of one hour will apply for any services provided under this clause.</p> <p>Charges for Ad Hoc Services not mentioned in the above clauses will be agreed between TechBrain and the Customer and invoiced on a per project/job basis at an agreed rate.</p>	Technical Level	Business Hours	Out of Hours 1.5 x	Public Holidays 2.0 x	Desktop / Technician	130	195	260	System Administration, Server, IP Telephony	165	247.50	330	Cisco Support	175	262.50	350	vCIO / Consulting	190	N/A	N/A
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Cisco Support	175	262.50	350																		
vCIO / Consulting	190	N/A	N/A																		

Fee Description	Details
	Any Ad-Hoc fees shall be invoiced to the Customer each fortnight by TechBrain and shall become due and payable within 14 calendar days from the date of the invoice.
4. Hourly Rate	Any other charges relating to services not contemplated as either an Agreement Service, Ad Hoc Service or Excluded Service shall be mutually agreed between TechBrain and the Customer and invoiced on a per project/job basis.
5. Travel time	Where on site support is provided to the Customer, TechBrain will charge for travel time from its nearest office location Customer's site and any return journey.
6. Expenses	TechBrain reserves the right to charge the Customer for any or all disbursements incurred by TechBrain in the performance of the Services or the Ad Hoc Services and will provide supporting evidence of such disbursements if requested by the Customer.
7. Rental equipment	Where the Customer is provided with rental equipment (irrespective of whether this is at no cost or charged to the Customer by TechBrain), the Customer agrees that it will be bound by the terms and conditions of any Rental Agreement supplied with the equipment, as if it were the direct Rentee of the goods.

PAYMENT OF FEES

All amounts shall be paid by the Customer to TechBrain by direct debit to the following bank account:

Account Name: TechBrain Pty Ltd
BSB: 066-000
Account Number: 1221 2632