

# Rental Service & Support Agreement - Terms and Conditions

## 1. Agreement

(a) You the Customer expresses your intent to obtain the Equipment and Services, along with a non-exclusive license for the Base Software and Licensed Software. (ii) CLOUDBLU PTY LTD is not legally committed to this document until the Customer receives written confirmation of CLOUDBLU PTY LTD's unconditional acceptance or until the Equipment subject to this Agreement is delivered to the Customer, whichever occurs first. (iii) The Customer may retract their offer to acquire the Equipment, Services, and Licensed Software by providing written notice to CLOUDBLU PTY LTD, in the event that CLOUDBLU PTY LTD has not, within 60 days of the Customer signing and returning this document, either: (A) conveyed their unconditional acceptance in writing (Notice Acceptance Period), noting that if the document is returned incomplete or if CLOUDBLU PTY LTD requires additional information from the Customer concerning the offer, the Notice Acceptance Period will be paused during any period in which CLOUDBLU PTY LTD is waiting for the Customer to provide missing information or return a complete and signed document; or (B) delivered any of the Equipment subject to this Agreement within the Notice Acceptance Period, again noting that if the document is returned incomplete or if CLOUDBLU PTY LTD requires additional information from the Customer concerning the offer, the Notice Acceptance Period will be paused during any period in which CLOUDBLU PTY LTD is waiting for the Customer to provide missing information or return a complete and signed document. The Customer's right to retract their offer to obtain the Equipment, Services, and Licensed Software as per clause 1(a)(iii) ends immediately once CLOUDBLU PTY LTD becomes legally bound by this document in accordance with clause 1(a)(ii). (iv) The Agreement may only be accepted or altered on behalf of CLOUDBLU PTY LTD by a duly authorized representative (excluding CLOUDBLU PTY LTD sales representatives). (b) Order of priority: In cases of inconsistency among the various sections of the Agreement, the inconsistency will be resolved following the descending order of priority outlined in the definition of "Agreement" in clause 15. (c) Missing information: The Customer grants CLOUDBLU

## 2. Minimum Term and Holding Over Period

**(a) Minimum Duration:** The Agreement will remain in effect until the end of the Minimum Term unless it is terminated earlier in accordance with its terms. **(b) Extending Beyond the Minimum Term:**

(i) CLOUDBLU PTY LTD is required to give the Customer at least 120 days' notice before the Minimum Term ends, specifying the end date of the Minimum Term.

(ii) If either party wishes to conclude the Agreement at the end of the Minimum Term, written notice of the intent to terminate must be given at least 90 days prior to the Minimum Term's end. In this case, the Agreement will conclude on the last day of the Minimum Term.

(iii) If neither party provides notice as described in clause 2(b)(ii), the Agreement will automatically continue beyond the Minimum Term in a holding-over period without a specified expiry date, except for the licensing of the Licensed Software, which will be governed by clause 7.

(iv) If Licensed Software provided during the Minimum Term is no longer supplied during the Holding Over Period, CLOUDBLU PTY LTD must adjust the Charges payable during the Holding Over Period accordingly.

(v) Besides any other termination rights mentioned in this Agreement, either party may terminate the Agreement during the Holding Over Period by providing written notice of at least 90 days to the other party. In this case, the Agreement will terminate at the end of the 90-day notice period or on a later date agreed upon in writing by both parties. However, please note that the termination of the Licensed Software's license during any Holding Over Period is governed by clause 7.

## 3 Shipping Liability & Risk

(a) Preparing the Location: Before the shipment, the Customer is responsible for preparing the designated location and ensuring it's accessible for the delivery.

(b) Shipping Terms:

(i) CLOUDBLU PTY LTD will make every reasonable effort to deliver the Equipment by the specified delivery date in the Agreement.

(ii) If the Customer declines the delivery or the installation of any Equipment or Licensed Software they have agreed to acquire, CLOUDBLU PTY LTD may, with at least 7 days' written notice to the Customer, initiate the Minimum Term. The Customer will be obligated to pay all associated charges, regardless of whether all Equipment and Licensed Software items have been delivered and installed. In such cases, both parties must collaborate to expedite the delivery and installation of any remaining Equipment and Licensed Software. (c) Assistance Requirement: The Customer is obligated to provide CLOUDBLU PTY LTD with necessary assistance, including personnel and facilities, as reasonably deemed essential by CLOUDBLU PTY LTD to ensure a satisfactory delivery and installation process (d) Acceptance: The Customer is considered to have accepted the Equipment upon its delivery. (e) Ownership: The ownership of Equipment, Consumables (excluding Excess Consumables), and Parts never transfers to the Customer. Ownership of Excess Consumables is transferred to the Customer upon full payment for the Excess Consumables to CLOUDBLU PTY LTD.

## 4. Customer Responsibilities

(a) Customer Responsibilities: The Customer is responsible for the following: (i) Compliance: The Customer must ensure that the Products are not used for any unlawful purposes and must not modify, tamper with, or relocate them without obtaining prior written consent from CLOUDBLU PTY LTD. Furthermore, the Customer should not encumber the Products in any way without CLOUDBLU PTY LTD's prior written consent, except as per clause 11. (ii) Insurance: The Customer must procure insurance coverage for the Products, ensuring their full replacement value on an all-risk basis. The Customer is also responsible for indemnifying CLOUDBLU PTY LTD against any loss or damage to the Products, which includes associated reasonable legal costs. This indemnification applies unless the loss or damage results from Normal Wear and Tear or is caused by CLOUDBLU PTY LTD, its employees, subcontractors, or agents. (iii) Meter Readings: If Equipment meter readings are not captured by CLOUDBLU PTY LTD Tools for any reason, the Customer must provide meter readings for each Billing Period. Additionally, the Customer should implement any CLOUDBLU PTY LTD Tools reasonably required by CLOUDBLU PTY LTD to address the failure to capture meter readings. (iv) Site Conditions: The Customer is responsible for providing and maintaining proper Site, environmental, operating, and network conditions as specified in the Specifications or as otherwise reasonably directed by CLOUDBLU PTY LTD. (v) Consumables: The Customer must use appropriate Consumables and Document Supplies for the Equipment. (vi) Specifications Compliance: The Customer is expected to comply with the Specifications. CLOUDBLU PTY LTD will provide a copy of the Specifications to the Customer before the Agreement is signed. (vii) Network Security: The Customer must implement necessary network security practices, including regular data backups and the use of commercially available anti-virus software. (viii) Access for Support Services: The Customer must grant access to the Site and the Products to CLOUDBLU PTY LTD, its contractors, or agents as necessary to perform Support Services. Visits for Support Services will be scheduled in advance. Failure to provide timely access may exempt CLOUDBLU PTY LTD from liability for any loss or damage incurred due to the Customer's failure to grant access. (ix) Compliance Verification: With at least 2 Business Days' notice, the Customer should allow CLOUDBLU PTY LTD and its contractors or agents access to the Site and the Products to verify compliance with the Agreement's terms. CLOUDBLU PTY LTD is not required to provide advance notice if there are reasonable grounds to suspect fraud, unreasonable stockpiling of Consumables, or a breach by the Customer of clause 4(a)(i). (x) Subcontracting: The Customer should not subcontract or appoint an agent for any of its obligations under the Agreement without obtaining prior written consent from CLOUDBLU PTY LTD, with such consent not to be unreasonably withheld. (xi) Signing Authority: The Customer is responsible for ensuring that the person signing the Agreement on the Customer's behalf has all the necessary authority to do so. **(a)**

## 5. Unwanted Equipment

**(a) Third Party Unwanted Equipment:** If the Unwanted Equipment is subject to an Existing Contract with a Third Party: **(i)** the Customer is responsible for terminating the Existing Contract, including any payout and other liabilities due under the Existing Contract; **(ii)** the Customer is responsible for decommissioning and removing the Unwanted Equipment from the location set out in Section 3 of the Schedule and, if applicable, returning it to the Third Party owner; **(iii)** Where agreed by the parties in writing, CLOUDBLU PTY LTD will: (A) decommission and remove the Unwanted Equipment and return it as nominated under Section 3, Part B of the Schedule; or (B) dispose of the Unwanted Equipment. Where this clause 5(a)(ii) applies, Customer warrants it has the authority to permit CLOUDBLU PTY LTD to decommission, remove or otherwise dispose of the Unwanted Equipment; **(iv)** an amount equivalent to the Pay Out Funds (if any) will be incorporated into, and funded through, the Rental Charges; **(v)** any

Pay Out Funds will be paid by CLOUDBLU PTY LTD to the Customer, or, should the Customer direct, the Customer's Third Party financier, subject to the Customer issuing a valid tax invoice and such other documentation as may be required by CLOUDBLU PTY LTD, acting reasonably; and (vi) the Customer is responsible for any shortfall if the Pay Out Funds are insufficient to extinguish the Customer's financial obligations under the Existing Contract and no such shortfall shall invalidate, or give rise to any right to terminate, the Agreement. (b) **CLOUDBLU PTY LTD Unwanted Equipment:** If the Unwanted Equipment is subject to an Existing Contract with CLOUDBLU PTY LTD: (i) the Customer must pay all arrears under the Existing Contract; (ii) CLOUDBLU PTY LTD will remove the Unwanted Equipment from the location set out in Section 3 of the Schedule in the course of delivering Equipment; (iii) an amount equivalent to the Pay Out Funds (if any) will be incorporated by CLOUDBLU PTY LTD into, and funded through, the Rental Charges; and (iv) unless the parties have agreed otherwise in writing, and subject to clause 5(b)(i), the Customer is released from paying any further charges under the Existing Contract. (c) **Customer owned Unwanted Equipment:** (i) If the Unwanted Equipment is owned by the Customer, the Customer is responsible for decommissioning the Unwanted Equipment and the termination of any associated Existing Contract. (ii) Where agreed by the parties, CLOUDBLU PTY LTD will decommission, remove and dispose of Customer owned Unwanted Equipment either before or at the same time as any new CLOUDBLU PTY LTD Equipment is delivered. Where the Customer agrees to the removal of Unwanted Equipment pursuant to this clause 5(c), the Customer warrants that: (A) it is the lawful owner of the Unwanted Equipment; (B) the Unwanted Equipment is free from all claims and encumbrances; and (C) it has the authority to permit CLOUDBLU PTY LTD to decommission, remove and dispose of the Unwanted Equipment.

#### 6. Support Services, Base Software and CLOUDBLU PTY LTD Tools

(a) **Introduction:** CLOUDBLU PTY LTD will provide Support Services to help maintain CLOUDBLU PTY LTD Equipment and Base Software performance. (b) **Support Services for CLOUDBLU PTY LTD Equipment:** (i) Support Services means: (A) access to remote assistance for CLOUDBLU PTY LTD Equipment and Base Software through CLOUDBLU PTY LTD's online support assistant or customer support centre; (B) the repair and replacement of Parts for CLOUDBLU PTY LTD Equipment which, through Normal Wear and Tear, become unserviceable. Replacement Parts will be of serviceable quality and may be new, used or reconditioned; (C) the supply of Mandatory Retrofits; and (D) unless otherwise specified in the Schedule, the supply of Consumables for CLOUDBLU PTY LTD Equipment. Consumables (where included) must only be used in CLOUDBLU PTY LTD Equipment and are included as follows: (1) in respect of toner, at the toner cartridge yield rate specified in the CED. The toner cartridge yield rate sets out the Impressions (based on 5% area coverage per colour based on A4 LEF size paper) that can be performed per toner cartridge; and (2) in respect of any other Consumables identified as a customer replaceable unit in the CED, included at the rate of usage specified in the CED. (ii) If the Customer consumes a Consumable before its yield rate is met, or requires more of a Consumable for CLOUDBLU PTY LTD Equipment before its yield rate has been met, the Consumable will be provided, however, CLOUDBLU PTY LTD may provide the Customer written notice that Excess Consumables are being provided. If, 14 days after being provided such notice, the Customer continues to require Excess Consumables, the Customer must start paying for such Excess Consumables as per clause 8(b)(iii). Consumables usage is calculated per item of CLOUDBLU PTY LTD Equipment. (c) **Performing Support Services:** (i) CLOUDBLU PTY LTD may elect to provide Support Services for CLOUDBLU PTY LTD Equipment and Base Software by providing access to its support website, telephone, e-mail, remote diagnostics or by using any CLOUDBLU PTY LTD Tools and if CLOUDBLU PTY LTD considers necessary, by providing on-site Support Services. (ii) The Customer acknowledges that where Equipment is not capable of being remotely monitored by CLOUDBLU PTY LTD for any reason (for example network compatibility issues or the Customer changing its IP address or port settings), remote Consumables management (including where available, automated toner replenishment and meter readings) as well as automated billing will not be possible. Where Equipment supplied by CLOUDBLU PTY LTD has remote Consumables management capability, the parties must work together to continuously enable this functionality. (d) **Return of cartridges and drums:** The Customer must deliver up to CLOUDBLU PTY LTD the cartridges, drums and other consumed Consumables supplied by CLOUDBLU PTY LTD once their use in Equipment ceases. (e) **Exclusions:** Support Services do not include Additional Services, Application Software Support or Excess Consumables. (f) **Scope:** If no Support Service Charges are

specified in the Schedule, CLOUDBLU PTY LTD is not obligated to provide any Support Services. (g) **Third Party Equipment:** Where the Schedule includes Third Party Equipment, CLOUDBLU PTY LTD will, unless otherwise set out in the Schedule, provide Support Services for that Third Party Equipment as follows: (i) if the Third Party Equipment is a wide format device or 3D device: (A) access to remote assistance through CLOUDBLU PTY LTD's online support assistant or customer support centre; (B) the repair and replacement of Parts which, through Normal Wear and Tear, become unserviceable. Replacement Parts will be of serviceable quality and may be new, used or reconditioned; and (C) the supply of any mandatory retrofits as required by the manufacturer. Support Services may, at CLOUDBLU PTY LTD's option, be provided by telephone, email, remote diagnostics or, if CLOUDBLU PTY LTD considers necessary, on-site. Support Services for wide format Equipment and 3D devices does not include the supply of any Consumables, Additional Services or Application Software Support. Support Services for wide format Equipment and 3D devices is charged by way of a Periodic Support Charge and not by Impression Charges; and (ii) for any other Third Party Equipment, Support Services means, unless otherwise set out in the Schedule: (A) access to remote assistance through CLOUDBLU PTY LTD's online support assistant or customer support centre; and (B) the supply of any mandatory retrofits as required by the manufacturer. Support Services for Third Party Equipment subject to this clause 6(g)(ii) will be charged as set out in Section 1 of the Schedule. (h) **Ceasing Equipment Support Services:** CLOUDBLU PTY LTD may on 90 days notice de-scope Support Services if CLOUDBLU PTY LTD ceases supplying Support Services for that model to the market generally. In the event that CLOUDBLU PTY LTD ceases the supply of Support Services in accordance with this clause, then, without limiting the Customer's right to terminate pursuant to clause 9(e)(ii), CLOUDBLU PTY LTD will reduce the Charges accordingly and where possible, provide support at the Customer's request on a time and materials basis at CLOUDBLU PTY LTD's then current Charges. (i) **Base Software:** (i) Subject to clause 6(i)(iv), CLOUDBLU PTY LTD grants to the Customer a non-exclusive and non-transferable licence to use the Base Software in object code within Australia only on, and in the course of operating, the CLOUDBLU PTY LTD Equipment with which (or within which) it was delivered, and for as long as Customer is legally in possession of the CLOUDBLU PTY LTD Equipment. (ii) Title in the Base Software does not at any time pass to the Customer. (iii) Any Third Party software incorporated in the Base Software is licensed for use as set out in the licence terms supplied with the Equipment (including click-wrap and shrink wrap licence terms). (iv) Base Software may contain computer code that disables the proper operation or functioning of Equipment if there is a breach of an Essential Term or Customer's licence to the Base Software is terminated or expires. (v) CLOUDBLU PTY LTD will use reasonable efforts to resolve coding errors in Base Software and provide workarounds or patches provided the Customer reports the problems accurately and with the detail reasonably required by CLOUDBLU PTY LTD. The Customer accepts that CLOUDBLU PTY LTD may not successfully correct all errors. Support Services includes access to Maintenance Releases. Maintenance Releases must be implemented by the Customer within 30 days after being made available by CLOUDBLU PTY LTD. (j) **Diagnostic Software and CLOUDBLU PTY LTD Tools:** (i) Diagnostic Software may be installed on, embedded in or reside on CLOUDBLU PTY LTD Equipment. (ii) CLOUDBLU PTY LTD Tools may be installed on, embedded in or reside on CLOUDBLU PTY LTD Equipment or Third Party Equipment. (iii) Title to the Diagnostic Software and CLOUDBLU PTY LTD Tools shall at all times remain solely with CLOUDBLU PTY LTD or its licensors. (iv) Unless separately licensed by CLOUDBLU PTY LTD to do so, the Customer does not acquire a licence or right to access or use the Diagnostic Software or CLOUDBLU PTY LTD Tools in any manner. (v) In order to efficiently perform the Services, the Customer must allow CLOUDBLU PTY LTD reasonable access to the Site to install, modify, remove, maintain, operate and replace any CLOUDBLU PTY LTD Tools used by CLOUDBLU PTY LTD to perform the Services and will do anything else reasonably necessary to allow the CLOUDBLU PTY LTD Tools to operate in accordance with the Specifications. CLOUDBLU PTY LTD Tools may be modified, removed or replaced by CLOUDBLU PTY LTD at its discretion, providing that any such modification, removal or replacement will not affect CLOUDBLU PTY LTD's obligations to perform the Services. (k) **Miscellaneous:** Unless permitted by law notwithstanding this prohibition, the Customer must not (and must ensure Third Parties do not): (i) distribute, copy, modify, create derivative works of, decompile or reverse engineer the Base Software, Diagnostic Software or CLOUDBLU PTY LTD Tools; (ii) activate any software delivered with Equipment in an

inactivated state; or **(iii)** remove or modify trademarks or copyright notices on any Equipment, Specifications or other materials or documents supplied by CLOUDBLU PTY LTD.

#### 7. Licensed Software: Application Software, Application Software Support and/or SaaS

**(a) Software Delivery, Acceptance, Licence and Title:** (i) CLOUDBLU PTY LTD will use reasonable endeavours to Software Deliver the Application Software and SaaS (unless otherwise specified in a SOW) by the Commencement Date. **(ii)** Subject to clause 7(a)(iii), the Licensed Software is deemed accepted, and the Initial Licensed Software Period commences, upon Software Delivery. **(iii)** If the Customer refuses to accept Software Delivery or permit installation of any Licensed Software that it has agreed to acquire, CLOUDBLU PTY LTD may, by providing the Customer at least 7 days written notice, commence the Initial Licensed Software Period and the Customer must pay all Charges, irrespective of whether all Licensed Software has been Software Delivered and installed. In these circumstances, the parties must work together to ensure any remaining Licensed Software is Software Delivered and installed as soon as possible. **(iv)** Unless specified in the Schedule that the Initial Licensed Software Period is perpetual: **(A)** the initial licence period for Licensed Software shall be as specified in Section 4 of the Schedule with respect to Application Software and/or SaaS (as applicable) ("**Initial Licensed Software Period**"); **(B)** CLOUDBLU PTY LTD must provide the Customer with at least 120 days notice prior to the end of the Initial Licensed Software Period (or any renewal term) informing the Customer of the end date of the Initial Licensed Software Period (or renewal term) and any changes to Charges for the Licensed Software; and **(C)** the provision of Licensed Software automatically renews for successive 12 month periods (and such renewed Licensed Software shall be charged at the rates set out in the notification required pursuant to clause 7(a)(iv)(B)) unless either party provides written notice to the other party that it does not wish to renew no less than 30 days prior to a renewal date. **(v)** The Customer acknowledges and agrees that its use of the Licensed Software and Specifications of the Licensed Software is subject to the terms of the applicable and any Licence Restrictions. The Customer agrees to comply with the terms of the EULA (which the Customer acknowledges may be made between Customer and a Licensor that is a Third Party and therefore not be a contract between CLOUDBLU PTY LTD and the Customer or include terms determined by CLOUDBLU PTY LTD). Where CLOUDBLU PTY LTD or one of its Related Bodies Corporate is the Licensor under the EULA and determines the terms of the EULA, CLOUDBLU PTY LTD will not amend the terms of that EULA without the prior written consent of the Customer. Where CLOUDBLU PTY LTD or one of its Related Bodies Corporate does not determine the terms of the EULA, CLOUDBLU PTY LTD agrees to promptly notify the Customer of any changes that CLOUDBLU PTY LTD becomes aware of to the EULA. For the avoidance of doubt, the existence of the EULA is without prejudice to the Customer's obligations to pay CLOUDBLU PTY LTD the Licence Fee and any other Charges required under the Agreement. **(vi)** Title in Licensed Software (including any copyright and other intellectual property rights subsisting in the Licensed Software) does not at any time pass to the Customer and, except with respect to any perpetually licensed software, any licence granted to the Customer expires at the earlier of the: **(A)** end of the Initial Licensed Software Period, together with any renewals; and **(B)** expiry or termination of the Agreement. **(b) Application Software Support:** (i) Application Software Support commences on the start date of the Initial Licensed Software Period and continues for the same period as the Initial Licensed Software Period, or such other period specified in the Schedule (except for perpetually licensed software which shall continue for 12 months or such other period specified in the Schedule) (in each case an "**Initial Application Software Support Period**"). (ii) CLOUDBLU PTY LTD must provide the Customer with at least 120 days notice prior to the end of the Initial Application Software Support Period (or any renewal term) informing the Customer of the end date of the Initial Application Software Support Period (or renewal term) and any changes to Charges for the Application Software Support. The Initial Application Software Support Period automatically renews for successive 12 month periods (and such renewed Application Software Support shall be charged at the rates set out in the notification required pursuant to this clause 7(b)(ii)) unless either party provides written notice to the other party that it does not wish to renew no less than 30 days prior to a renewal date. **(iii)** The Customer must ensure that (if reasonably required by CLOUDBLU PTY LTD), CLOUDBLU PTY LTD has sufficient access to the Licensed Software, any systems in which the Licensed Software is used, and any relevant records or documentation to provide the Application Software Support. **(iv)** CLOUDBLU PTY LTD will provide Patches or Minor Releases within a reasonable period of being made available to CLOUDBLU PTY LTD by the Licensor.

CLOUDBLU PTY LTD cannot guarantee and does not warrant that a Patch or Minor Release will be available where a Defect has been identified or that (where made available) a Patch or Minor Release will in fact rectify, limit or eliminate a Defect in the Licensed Software or cause the Licensed Software to operate without error. **(v)** Unless specified in the Schedule, CLOUDBLU PTY LTD has no obligation to provide on-site support to the Customer in relation to the Licensed Software. **(c) Miscellaneous:** (i) The Customer must designate a customer contact to conduct all communication with CLOUDBLU PTY LTD with respect to the Application Software Support. **(ii)** The Customer must provide CLOUDBLU PTY LTD with all reasonable access to the Licensed Software, the Site and the Equipment to perform its obligations (including, but not limited to, Application Software Support).

#### 8. Charges, Payment and GST

**(a) Payment:** The Customer must pay CLOUDBLU PTY LTD all Charges within 7 days of the date of the invoice for the Charges. The Charges are due to be paid by direct debit, electronic funds transfer or by an alternative CLOUDBLU PTY LTD will invoice the Customer: **(A)** any one-off Charges; **(B)** Charges in accordance with the Billing Period; and **(C)** for Impressions (if any) made by the Customer prior to the first Billing Period. **(ii)** Subject to clause 8(b)(iii), Charges for Additional Services will be agreed in writing between the parties prior to CLOUDBLU PTY LTD undertaking such Additional Services and will be invoiced by CLOUDBLU PTY LTD at the intervals agreed, or if no such intervals have been agreed then at the end of the provision of the Additional Services. **(iii)** Charges for Excess Consumables are not required to be agreed in advance and, subject to clause 6(b)(ii), will be invoiced by CLOUDBLU PTY LTD at the RRP rates at the time the Excess Consumables were supplied (unless different pricing has been agreed in writing between CLOUDBLU PTY LTD and the Customer with respect to such Excess Consumables). **(c) Licensed Software:** Subject to clauses 3(b)(ii) and 7(a)(iii), CLOUDBLU PTY LTD will invoice the Customer the Licence Fee, at CLOUDBLU PTY LTD's option, either upon Software Delivery of the Licensed Software or, provided the Licensed Software has been Software Delivered, together with the Rental Charges. In the event that the Initial Licensed Software Period begins prior to the Commencement Date, CLOUDBLU PTY LTD may increase the Charges for the first (or later) Billing Period accordingly. **(d) Meter readings:** CLOUDBLU PTY LTD may determine the method of meter readings which may include the use of CLOUDBLU PTY LTD Tools. If CLOUDBLU PTY LTD Equipment meter readings are not provided for any reason, CLOUDBLU PTY LTD may issue system generated invoices for the Support Service Charges based upon, at CLOUDBLU PTY LTD's option, historical usage or the CLOUDBLU PTY LTD Equipment's average capacity, which will be reconciled at a later Billing Period when actual meter readings are next made available (except in respect of a final estimate in which case no reconciliation will be performed). **(e) Variation:** (i) On each anniversary of the Commencement Date, the Support Service Charges will automatically increase as set out in the Schedule. If no increases are set out, the Support Service Charges will not change during the Minimum Term or any Holding Over Period. **(ii)** The following Charges are fixed: **(A)** the Rental Charge; **(B)** the MPS Charge; **(C)** the Application Software Licence Fee during the Initial Licensed Software Period; **(D)** the SaaS Licence Fee during the Initial Licensed Software Period; and **(E)** the Application Software Support Fee during the Initial Application Software Support Period. **(f) GST:** All Charges are GST exclusive and (if taxable supplies) the Customer must pay GST at the then current rate of GST when the Charges are invoiced. **(g) Interest:** The Customer must pay interest calculated on a daily basis on Charges that are payable, but which have not been paid by the due date for payment at a per annum rate of 6% above the cash rate last published by the Reserve Bank of Australia. **(h) Legal and collection costs and expenses:** Subject to clause 14(k)(ii), the Customer must pay CLOUDBLU PTY LTD all costs and expenses, including legal costs and collection agency costs, which CLOUDBLU PTY LTD incurs as a result of the Customer's breach of the Agreement. **(i) Set off:** A party (**Party A**) will be entitled, at all times and on notice to the other party (**Party B**), to set off any amounts due and payable from Party B to Party A under this Agreement or any other contract between the parties, against any amounts payable at any time by Party A to Party B. **(j) Rental Charges:** The Customer must start paying Support Service Charges upon delivery of each item of Equipment however, subject to clause 3(b)(ii), CLOUDBLU PTY LTD will not invoice the Customer for any Rental Charges until all Equipment is delivered. If the parties agree to add Equipment by way of an amendment to the Agreement then, subject to clause 3(b)(ii), CLOUDBLU PTY LTD will not invoice the Customer any Rental Charges for the Equipment added pursuant to that amendment until all such Equipment is delivered.

## 9. Termination and Suspension

**(a) Express termination rights:** Subject to any Non Excludable Rights, the Agreement cannot be cancelled or terminated except as expressly provided for in the Agreement. **(b) Suspension:** If the Customer is in breach of a payment obligation under the Agreement and fails to remedy such breach within a period of 14 days of being given notice, specifying the breach and the intention by CLOUDBLU PTY LTD to suspend the provision of the Services if the breach is not remedied, or if CLOUDBLU PTY LTD considers there may be a risk to the health or safety of its personnel, CLOUDBLU PTY LTD may suspend the provision of part or all of the Services. Any suspension of the Services in such circumstances is without prejudice to the Customer's obligations to comply with the Agreement, including the continued payment of all Charges. CLOUDBLU PTY LTD must reinstate the provision of Services promptly once the breach has been remedied or the risk to its personnel has been eliminated or mitigated to the reasonable satisfaction of CLOUDBLU PTY LTD. **(c) Termination by CLOUDBLU PTY LTD:** CLOUDBLU PTY LTD may immediately terminate the Agreement by notice to the Customer if: **(i)** the Customer is in material breach of the Agreement (including an Essential Term) and the Customer fails to remedy such breach within a period of 30 days of being given notice, specifying the breach and the intention by CLOUDBLU PTY LTD to terminate the Agreement if the breach is not remedied; **(ii)** the Customer becomes subject to an Insolvency Event, to the extent CLOUDBLU PTY LTD is permitted by law to terminate for such Insolvency Event; **(iii)** a form of guarantee or security arranged by the Customer and given to CLOUDBLU PTY LTD in relation to performance of the Customer's obligations or potential liability under the Agreement lapses, becomes unenforceable, or the guarantor or security provider dies, becomes subject to an Insolvency Event or ceases to be a director, owner or officer of the Customer or changes the nature of their relationship with the Customer from that which existed when the guarantee was provided (each of the aforementioned events in this clause 9(c)(iii) a "**Guarantee or Security Event**"), and alternative security, reasonably satisfactory to CLOUDBLU PTY LTD, is not provided to CLOUDBLU PTY LTD within 7 days of the Guarantee or Security Event occurring; or **(iv)** any Equipment is lost, stolen, destroyed or damaged (other than to the extent the relevant loss, theft, destruction or damage is caused by CLOUDBLU PTY LTD, its employees, subcontractors or agents) to an extent CLOUDBLU PTY LTD reasonably considers unrepairable. **(d) Payment of Break Fee on termination by CLOUDBLU PTY LTD:** Without limiting the Customer's obligations under the remainder of clause 9, if the Customer is in fundamental breach of an Essential Term or becomes subject to an Insolvency Event and the Agreement is terminated by CLOUDBLU PTY LTD, the Customer must pay CLOUDBLU PTY LTD the Break Fee. **(e) Termination by the Customer:** **(i)** The Customer may immediately terminate the Agreement by notice to CLOUDBLU PTY LTD if: **(A)** CLOUDBLU PTY LTD is in material breach of the Agreement and CLOUDBLU PTY LTD fails to remedy such breach within a period of 30 days of being given notice, specifying the breach and the intention by the Customer to terminate the Agreement if the breach is not remedied; or **(B)** CLOUDBLU PTY LTD becomes subject to an Insolvency Event, to the extent the Customer is permitted by law to terminate for such Insolvency Event. **(ii)** If CLOUDBLU PTY LTD issues a notice pursuant to clause 6(h) in respect of certain Equipment, the Customer may terminate the Agreement in respect of only that Equipment. The Customer may only exercise its right to terminate pursuant to this clause 9(e)(ii) by providing written notice to CLOUDBLU PTY LTD within 30 days of receipt of CLOUDBLU PTY LTD's notice pursuant to clause 6(h). Where the Customer exercises its right to terminate pursuant to this clause 9(e)(ii), CLOUDBLU PTY LTD must reduce the Rental Charges accordingly. **(f) Rights not affected:** Unless otherwise specified, early termination of the Agreement for any reason does not affect either party's rights to seek damages for any breach of the Agreement. **(g) Obligations on Agreement ending:** Once the Agreement has ended for any reason, the Customer must: **(i)** erase any Customer related data on the Equipment; **(ii)** make the Products (including the Equipment and any unused Consumables and Parts supplied as part of Support Services), available to CLOUDBLU PTY LTD or its nominee to collect and remove from the Site in good condition, subject to Normal Wear and Tear; **(iii)** upon reasonable advance notice by CLOUDBLU PTY LTD and at CLOUDBLU PTY LTD's option, remove or permit CLOUDBLU PTY LTD to remove CLOUDBLU PTY LTD Tools from the Customer's systems as directed by CLOUDBLU PTY LTD; **(iv)** pay CLOUDBLU PTY LTD any amounts invoiced by CLOUDBLU PTY LTD that are due and payable under the Agreement but which have not been paid to CLOUDBLU PTY LTD; **(v)** pay CLOUDBLU PTY LTD any other amounts due and payable under the Agreement; **(vi)** return or destroy copies of the Specifications in its possession or control as directed by CLOUDBLU PTY LTD; and **(vii)** other than Licensed Software that has been licensed to the Customer by a Third Party Licensor on a perpetual

basis, cease using the Licensed Software and, at CLOUDBLU PTY LTD's option, remove or permit CLOUDBLU PTY LTD to remove the Licensed Software from the Customer's systems as directed by CLOUDBLU PTY LTD. **(h) CLOUDBLU PTY LTD's Rights:** If the Customer fails to comply with clause 9(g), CLOUDBLU PTY LTD may provide the Customer with notice in writing requiring the Customer to so comply within 5 Business Days. If the Customer continues to fail to comply with clause 9(g) despite the notice, CLOUDBLU PTY LTD or its nominee may: **(i)** by providing at least 1 Business Day notice, enter upon the Site at which the Products and Licensed Software were last known to be located and, where Products and Licensed Software are supplied by CLOUDBLU PTY LTD under the Agreement and to the extent title remains with CLOUDBLU PTY LTD or the Licensor, repossess or destroy the Products and Licensed Software; or **(ii)** in the case of unused Consumables, charge the Customer for such Consumables at the RRP rate at the time the Consumables were supplied. **(i) Survival:** Clauses 8(a), 8(f)-(h), 9(d), 9(f)-(i), 10,11, 13,14,15 and 16 survive the end of the Agreement along with any clause which is intended by its nature to survive.

## 10. Liabilities

**(a) Implied rights:** Nothing in the Agreement excludes, restricts or modifies any condition, warranty, right or liability implied in the Agreement or protected by law (including any guarantees under Australian Consumer Law) to the extent such exclusion, restriction or Agreement void, illegal or unenforceable (**Non Excludable Right**). Subject to any Non Excludable Right, any condition, warranty, right or liability which would otherwise be implied in the Agreement or protected by law is excluded. **(b) Customer warranties:** The Customer represents and warrants that: **(i)** it has acquired the Products, Licensed Software and Services for business and/or investment purposes and not for resale or personal, domestic or household use or consumption; **(ii)** it has the right and authority to enter into and perform its obligations under the Agreement; **(iii)** it has the authority to permit CLOUDBLU PTY LTD to decommission, remove and dispose of any Unwanted Equipment owned by the Customer or Third Parties; and **(iv)** the Products will only be used in Australia. **(c) Liability for Non Excludable Rights:** Subject to clause 10(a), the total liability of CLOUDBLU PTY LTD for any and all Claims in relation to Non Excludable Rights the subject of section 64A of the Australian Consumer Law is limited, at CLOUDBLU PTY LTD's option, to: **(i)** in relation to goods (other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption): **(A)** the replacement of the goods or the supply of equivalent goods; **(B)** the repair of the goods; **(C)** the payment of the cost of replacing the goods or of acquiring equivalent goods; or **(D)** the payment of the cost of having the goods repaired; and **(ii)** in relation to services (other than services of a kind ordinarily acquired for personal, domestic or household use or consumption): **(A)** the supplying of the services again; or **(B)** the payment of the cost of having the services supplied again. **(d) Liability Cap:** Subject to clauses 10(a) and 10(c), the total liability of CLOUDBLU PTY LTD and the Customer for any and all Claims is limited in aggregate to an amount equivalent to the Charges paid by the Customer under the Agreement during the first 24 months of the Minimum Term (or during such shorter period in the event the Claim arises in the first 24 months of the Minimum Term) (the **Liability Cap**). The Liability Cap does not apply to: **(i)** personal injury or death to the extent caused by the negligence of a party, its employees, subcontractors, contractors or agents; **(ii)** loss or damage to real or personal property to the extent caused by the negligence of a party, its employees, subcontractors, contractors or agents; **(iii)** infringement of IPR; **(iv)** breach of an obligation of confidence; and **(v)** the Customer's obligations pursuant to clauses 4(a)(ii), 5(a)(iii), 5(c)(ii), 8(a), 8(h) and 14(j)(v). **(e) Excluded loss:** Subject to Non Excludable Rights and the Customer's obligation to pay the Charges, neither party will be liable for any Consequential Loss. **(f) Contributory negligence:** The liability of a party for loss or damage sustained by the other will be reduced proportionately to the extent that such loss or damage has been caused or contributed to by the other's negligence or default.

## 11. Personal Property and Securities Register

**(a) Definitions:** **(i)** Defined terms in this clause 11 and clause 14(b) which are not otherwise defined in the Agreement have the meaning given in the PPSA; and **(ii)** Collateral means the Products (including all Proceeds derived from such Products). **(b) Notices:** The Customer acknowledges that CLOUDBLU PTY LTD is not required to give it any notices or provide it with copies of any documents required to be given under the PPSA including any regulations or instruments made under it. The Customer waives any right to receive any such notices or documents unless the requirement to provide that notice or document cannot be excluded by law. **(c) Security interest:** The Customer acknowledges and agrees that CLOUDBLU PTY LTD may take any steps it considers necessary to protect its interest in the

Equipment and under the Agreement in connection with the PPSA, including registering, perfecting, recording or securing those interests. **(d) Default:** It is a default by the Customer under the Agreement if the holder of any security interest (including under the PPSA) over any of its assets enforces that security interest. **(e) Customer assistance:** Upon request by CLOUDBLU PTY LTD, the Customer must do all such things and execute all such documents and consents as necessary for CLOUDBLU PTY LTD to comply with the PPSA or to enable it to register, perfect, record or secure those interests.

## 12. MPS Services

**(a) MPS Services:** Where the Schedule specifies MPS Charges, and provided that the Customer meets the performance and operational requirements set out in the relevant MPS Services CED on a continuing basis, CLOUDBLU PTY LTD will provide the MPS Services as set out in the relevant MPS Services CED from the date the MPS Services become active. If no MPS Charges are specified in the Schedule, CLOUDBLU PTY LTD is not obligated to provide any MPS Services. **(b) MPS Services CED:** Where in scope, the relevant MPS Services CED will be provided to the Customer prior to the Customer signing this Agreement.

## 13. Privacy Disclosure Statement and Credit Approval

**(a) Personal and credit information:** The Customer acknowledges that: **(i)** CLOUDBLU PTY LTD or any credit provider CLOUDBLU PTY LTD may approach to fund the scope of the Agreement may collect (directly and/or indirectly), use, hold and/or disclose personal information (as defined in the Privacy Act 1988 (Cth)) and credit-related information about the Customer (if the Customer is an individual) and the Customer's officers in accordance with CLOUDBLU PTY LTD's Privacy Policy and Credit Reporting Policy, for the following purposes: assessing the Customer's offer to enter into an agreement, including assessing the Customer's creditworthiness; administering and enforcing any resulting agreement; collecting (or engaging any Third Party to collect) any overdue payments under the Agreement; considering any other application from the Customer to CLOUDBLU PTY LTD; providing the Customer's information to potential alternate credit providers in circumstances where CLOUDBLU PTY LTD will decline the Customer's offer to enter into an agreement; investigating and preventing crime; account creation, account management, equipment delivery, servicing, data analytics, payments, debt collection and CLOUDBLU PTY LTD's other standard business practices; and (except in respect of credit related information), providing product and marketing materials to the Customer; **(ii)** CLOUDBLU PTY LTD may obtain a credit report from a credit reporting body about the Customer's commercial creditworthiness and the Customer's (if the Customer is an individual) and the Customer's officers' consumer creditworthiness. CLOUDBLU PTY LTD may use this report for any of the purposes listed in **(i)** other than for applications of a non-credit nature, or for providing product or marketing materials to the Customer; and **(iii)** CLOUDBLU PTY LTD may disclose any of the types of information referred to above to any of the following types of organisations (including individuals) for any of the purposes listed above: credit reporting bodies; debt collecting agencies; credit providers; CLOUDBLU PTY LTD's Related Bodies Corporate; the Customer's referees; any credit provider named by the Customer as a reference in any credit report; CLOUDBLU PTY LTD's agents, dealers, contractors and service providers as necessary for them to carry out their work for CLOUDBLU PTY LTD; government, regulatory and law enforcement bodies; insurers and underwriters; and prospective guarantors. CLOUDBLU PTY LTD's Related Bodies Corporate and Third Party organisations (for example, service providers) may be located overseas, including in the EU, India, Japan, Malaysia, New Zealand, the Philippines, Singapore, Thailand and the United States. Credit reporting bodies may use disclosed information in accordance with their own privacy and credit reporting policies. **(b) Collection of information:** CLOUDBLU PTY LTD generally collects personal information and credit-related information from the Customer directly (if the Customer is an individual), including through this Agreement. CLOUDBLU PTY LTD may collect information about the Customer's officers from other company representatives. CLOUDBLU PTY LTD collects some credit-related information from credit reporting bodies, including as a result of conducting credit checks. **(c) Procurement of Consent from Officers:** The Customer warrants that it has or will procure any necessary consents from any Customer officers, including consents set out in the credit application that accompanies the Agreement, and will provide a copy of those consents to CLOUDBLU PTY LTD (in a form reasonably acceptable to CLOUDBLU PTY LTD) on request. **(d) Privacy Laws:** CLOUDBLU PTY LTD recognises the Customer's privacy is important and will act consistently with any applicable privacy and credit reporting laws binding on CLOUDBLU PTY LTD. **(e) Access to information and Statement of Notifiable Matters:** CLOUDBLU PTY LTD's Privacy Policy and Credit Reporting Policy contain information about how the Customer (if the Customer is an individual) and its officers may apply for access to and correction of their information and the process

for making complaints in relation to CLOUDBLU PTY LTD's handling of their information. CLOUDBLU PTY LTD's Statement of Notifiable Matters includes additional information about credit reporting, including the credit reporting bodies to which CLOUDBLU PTY LTD is likely to disclose the Customer's information, what credit reporting bodies may do with the information, and the Customer's rights in relation to credit information. **(f) Use of Personal Information:** The Customer must notify its officers that CLOUDBLU PTY LTD may collect, use, hold and disclose personal information in accordance with this clause 13.

## 14. Miscellaneous

**(a) IPR:** Nothing in the Agreement affects the IPR ownership of each party. **(b) Confidentiality:** The Customer and CLOUDBLU PTY LTD agree not to disclose information about the terms of the Agreement (including any payment terms), information regarding the Products, Licensed Software and CLOUDBLU PTY LTD Tools, information about the obligations secured by the Security Interest in the Collateral, information designated by CLOUDBLU PTY LTD as confidential and without limitation to the above, any information of the kind described in section 275(1) of the PPSA, except: **(i)** to its officers, employees, legal and other advisers and auditors; **(ii)** with the other party's consent; **(iii)** in CLOUDBLU PTY LTD's case, in accordance with its ordinary course of business; or **(iv)** if the disclosure is necessary to comply with an order of a court, or otherwise required by law or regulation and in the case of a disclosure reasonable notice of its intention to make that disclosure. **(c) Force majeure:** **(i)** If a party is affected by a Force Majeure Event, the party must promptly notify the other party in writing of this fact and all relevant details, including: **(A)** details of the Force Majeure Event; **(B)** the obligations affected by the Force Majeure Event (**Affected Obligations**); **(C)** an estimate of the duration of the Force Majeure Event; and **(D)** any steps taken or to be taken by the notifying party to mitigate or rectify the Force Majeure Event. **(ii)** A notifying party will not be liable to the other party for any delay or non-performance of its Affected Obligations for as long as the Force Majeure Event continues. **(iii)** The notifying party must use reasonable endeavours to remove, overcome or minimise the effects upon it of the Force Majeure Event. **(iv)** The Minimum Term will be extended by the duration of any Force Majeure Event notified under clause 14(c)(i). **(v)** The parties do not intend to exclude the operation of the common law doctrine of frustration. **(d) Assignment:** **(i)** Subject to clause 14(d)(ii), a party must not assign or transfer the Agreement or any benefit or right under it without prior written consent from the other party, such consent not to be unreasonably withheld. **(ii)** CLOUDBLU PTY LTD may assign or transfer the Agreement or any benefit or right under it without obtaining the Customer's prior consent to a solvent and reputable Related Body Corporate by prior written notice to the Customer. **(e) Governing law and jurisdiction:** The Agreement and all matters arising out of or relating to it are governed by the laws of New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales. **(f) Severability:** If the whole of any clause or part of any clause of the Agreement is illegal, void or unenforceable in a jurisdiction then this Agreement shall be interpreted as if that clause is varied to the extent necessary to render the clause no longer illegal, void or unenforceable and is if necessary omitted for that jurisdiction. The remainder of this Agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. **(g) Existing contracts:** Unless otherwise expressly specified in the Details or Schedule, Existing Contracts are not terminated or varied by the Agreement. **(h) Variation:** Except where otherwise permitted under the Agreement, any variations to the Agreement must be in writing and signed by the authorised representative of each party. **(i) Waiver:** No waiver by a party of any provision of the Agreement is effective unless it is in writing on letterhead and signed by a duly authorised representative of that party. **(j) Third Party rights:** Unless specified in the Details, the Customer enters into the Agreement on its own behalf and not as agent or trustee for an undisclosed Third Party. Where the Customer is acting as an agent for a disclosed Third Party, it must ensure that all Claims are brought only by the Customer and not by any Third Party. Where the Customer is acting as a trustee: **(i)** the Customer enters into the Agreement in its own right and as trustee and is jointly and severally liable under the Agreement in both capacities; **(ii)** the Customer warrants that: **(1)** it is entitled to enter the Agreement; **(2)** it is the only trustee of the trust; **(3)** it has the right to be indemnified out of the trust for its obligations under the Agreement; **(4)** no action has been taken or proposed to remove it as trustee of the trust or to terminate the trust; **(5)** any trust deed or other document provided to CLOUDBLU PTY LTD is true, accurate, complete and current; **(6)** it has complied and will comply with the trust deed at all times; and **(7)** the assets of the trust are and will remain sufficient to satisfy its obligations and potential liabilities under the Agreement; **(iii)** the Customer must do everything necessary to bind itself and its successors to the Agreement; **(iv)** without CLOUDBLU PTY

LTD's prior written consent, the Customer must: **(1)** not retire, cease to act or be removed from the trust; **(2)** ensure the trust is not terminated; **(3)** ensure the trust deed is not changed; and **(4)** ensure the trust funds are not mixed with any other property; and **(v)** the Customer must indemnify CLOUDBLU PTY LTD for any claims, costs, losses, damages, liabilities and expenses suffered or incurred as a result of the Customer's breach of this clause 14(j). **(k) SBC provision:** If this Agreement is considered a SBC: **(i)** CLOUDBLU PTY LTD will act reasonably in respect of all matters the subject of this Agreement and; **(ii)** clause 8(h) is not applicable. **(l) Notices:** Any notice in relation to the Agreement: **(i)** subject to clause 14(l)(ii), must be in writing and be left at or sent by prepaid post to a party's address specified in the Agreement or sent by email to a party's email details specified in the Agreement (as updated from time to time); **(ii)** may not be sent by email if it is a notice in relation to a breach of the Agreement by CLOUDBLU PTY LTD; and **(iii)** will be taken to have been received: in respect of any notice sent by post, 3 days after the date of posting; and in respect of any notice sent by email, at the time the email is sent unless the sender receives either a system generated message indicating the email has not been sent or received or an out of office reply which advises that the recipient is out of the office. The Customer must advise as soon as practicable if it changes its address or email details **(m) Agency:** CLOUDBLU PTY LTD may enter into the Agreement, in whole or in part, as principal and/or as agent on behalf of a Related Body Corporate of CLOUDBLU PTY LTD.

## 15. Definitions

Unless the context requires otherwise, in the Agreement: **Additional Services** means any additional goods or services provided by CLOUDBLU PTY LTD, including: **(i)** anything CLOUDBLU PTY LTD does in response to the Customer not doing something required of it under the Agreement (for example, if CLOUDBLU PTY LTD Equipment meter readings are not captured by CLOUDBLU PTY LTD Tools for any reason or CLOUDBLU PTY LTD is required to undertake additional administration due to the method meter readings are obtained); **(ii)** providing more of something which is included in the Agreement (for example, provision of Excess Consumables); **(iii)** attempting to do something but being unable to complete (for example, if a scheduled delivery or pick up does not take place and CLOUDBLU PTY LTD is not at fault); and **(iv)** doing something at the Customer's request. **Agreement** means each of **(i)** these terms and conditions; **(ii)** the Details; **(iii)** the Schedule; **(iv)** the Specifications; **(v)** any SOW; and **(vi)** any document incorporated into the Agreement by reference. **Application Software** means the application software specified in the "Application Software Description" field in Section 4 of the Schedule. **Application Software Installation Fee** means the "Application Software Installation Fee" specified in Section 4 of the Schedule. **Application Software Licence Fee** means the "Application Software Licence Fee" specified in Section 4 of the Schedule. **Application Software Support** means the provision of: (a) Maintenance; and (b) unless otherwise indicated in the Schedule, Technical Assistance. Application Software Support excludes Support Services. **Application Software Support Fee** means the "Application Software Support Fee" specified in Section 4 of the Schedule. **Australian Consumer Law** means the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth). **Base Software** means any software that is proprietary to CLOUDBLU PTY LTD or its Related Bodies Corporates or licensors and is installed upon, or embedded in, CLOUDBLU PTY LTD Equipment in an activated state when CLOUDBLU PTY LTD Equipment is delivered and any Maintenance Releases provided thereafter, excluding Diagnostic Software, CLOUDBLU PTY LTD Tools and Application Software. **Billing Period** means the "Billing Period" specified in Section 1 of the Schedule, with the first Billing Period commencing on the Commencement Date. If no Billing Period is set out, the Billing Period shall be monthly. **Break Fee** means an amount equal to the sum of the following: **(i)** the then unpaid balance of the following Charges for the remainder of the Minimum Term (had the Agreement not been terminated): **(A)** Rental Charges; **(B)** MPS Charges; and **(C)** Periodic Support Charges, all discounted to their net present value; **(ii)** the then unpaid balance of the following Charges for the Initial Licensed Software Period (had the Agreement not been terminated): **(A)** Application Software Licence Fee; and **(B)** SaaS Licence Fee, both discounted to their net present value; **(iii)** the then unpaid balance of the Application Software Support Fee during the Initial Application Software Support Period (had the Agreement not been terminated), discounted to its net present value; **(iv)** an administration fee of \$250; plus **(v)** an Equipment removal fee per item of Equipment of \$600; minus **(vi)** any Incremental Value; minus **(vii)** in the case of Equipment that is lost, stolen, destroyed or damaged, any Recovered Amount; and minus **(viii)** an amount representing the savings (if any) to CLOUDBLU PTY LTD of not having to deliver

Services to the Customer for the remainder of the Minimum Term, as reasonably determined by CLOUDBLU PTY LTD. **Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in the state or territory where the obligation is to be performed. **Business Hours** means 8.30am to 5pm on a Business Day. **CED** means any CLOUDBLU PTY LTD customer expectation documents applicable to Products, Licensed Software or Services supplied under the Agreement and provided to the Customer by CLOUDBLU PTY LTD under clauses 4(a)(vi) and 12(b) as applicable. The CED sets out expected performance characteristics and ongoing environmental and end user conditions, assumptions and recommendations important to the Customer's use, consumption and assessment of suitability of Products, Licensed Software, Services and Document Supplies. In respect of high volume CLOUDBLU PTY LTD Equipment, the CED includes any associated business validation document supplied by CLOUDBLU PTY LTD. **Charges** means the charges, fees and other amounts payable by the Customer under the Agreement, including the Rental Charges, MPS Charges, Support Service Charges, Application Software Licence Fee, Application Software Support Fee, Application Software Installation Fee, SaaS Licence Fee and charges for Additional Services and Excess Consumables. **Claim** means any and all claims arising from or in relation to the Agreement howsoever caused, and whether for fundamental or non-fundamental breach of contract (including for breach of an Essential Term), in tort (including negligence) or for breach of any statutory provision. **Commencement Date** means, subject to clause 3(b)(ii), the later of the commencement date (if any) specified in the Details and the date on which the last item of Equipment is delivered and installed. **Consequential Loss** means any Claim for any: consequential, incidental, special or indirect cost, loss or liability; loss of business, opportunity, revenue, goodwill, profit or savings; or loss, corruption or delay of data. **Consumables** means ink, toner, fuser, drums, cartridges and waste toner containers (and any other consumables specified in the Schedule) used by Equipment in the ordinary course of operation, excluding Document Supplies. **Credit Reporting Policy** means CLOUDBLU PTY LTD's credit reporting policy as amended from time to time without notice. The Customer can also ask for the Credit Reporting Policy to be provided to the Customer in an alternative form, such as a hard copy. **Customer** means the legal person specified as such in the Details. **Defect** means a material failure by the Licensed Software to perform in accordance with the Specifications, other than due to: misuse or use inconsistent with the Specifications; a Force Majeure Event; or acts or omissions of the Customer or Third Parties (excluding the Licensor of the Software). **Details** means the agreement details set out at the start of this document. **Diagnostic Software** means software embedded in CLOUDBLU PTY LTD Equipment and used or intended to be used by CLOUDBLU PTY LTD to maintain or diagnose defects or substandard performance. **Document Supplies** includes paper, transparencies, staples and other through put materials, excluding Consumables. **Equipment** means CLOUDBLU PTY LTD Equipment and any Third Party Equipment to be provided to the Customer as specified in Section 1 of the Schedule. **Essential Term** means the Customer's obligations under clauses 4(a)(i), 4(a)(ii) and

8(a). **EULA** means the relevant end user licence agreement applicable to Licensed Software or from such other location notified by CLOUDBLU PTY LTD to the Customer. **Excess Consumables** means Consumables used by the Customer in excess of the rate of usage included under the Support Services as specified in clause 6(b)(i)(D). **Existing Contract** means any existing lease, rental, maintenance or managed services contract between: the Customer and a Third Party; or the Customer and CLOUDBLU PTY LTD. **CLOUDBLU PTY LTD Equipment** means Equipment specified in Section 1 of the Schedule which is not Third Party Equipment. **CLOUDBLU PTY LTD Tools** means tools that are proprietary to CLOUDBLU PTY LTD or its licensors and designed to be used solely by CLOUDBLU PTY LTD to perform the Services and may include remote meter collection and monitoring Equipment tools. **Force Majeure Event** means any: circumstances beyond the relevant party's reasonable control; acts of God or nature; actions and orders of the government or a regulatory authority (including the change or introduction of any law or regulation); fire; flood; disease; epidemic; pandemic; strike or other labour dispute; war; civil disturbance; terrorism; denial of service or distributed denial of service attack; power, air-conditioning, communication or network failure; or failure of the Licensor. **GST** has the meaning given to the expression "tax" as it appears in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth). **Holding Over Period** has the meaning given in clause 2(b)(iii). **Impression** means the production of a one sided (Simplex) print or copy on A4 (or smaller) size paper or A4 equivalent. A two sided (Duplex) print or copy on A4 (or smaller) size paper or a Simplex print or copy on A3 size paper, shall be considered

2 Impressions unless there is a separate charge for A3 in the Schedule. A Duplex print or copy on A3 size paper shall be considered 4 Impressions unless there is a separate charge for A3 in the Schedule. CLOUDBLU PTY LTD will determine (acting reasonably) how any separate charge for A3 in the Schedule applies towards any committed billing volumes under this Agreement. Anything larger than A3 size paper shall be calculated as multiples of A4 size. **Impression Charges** means the "Impression Charges" set out in Section 1 of the Schedule. **Incremental Value** means the Equipment's market value as reasonably determined by CLOUDBLU PTY LTD upon return of the Equipment to CLOUDBLU PTY LTD. **Initial Application Software Support Period** means the "Initial Application Software Support Period" specified in Section 4 of the Schedule. **Initial Licensed Software Period** means the "Initial Licensed Software Period" specified in Section 4 of the Schedule with respect to Application Software and/or SaaS (as applicable). **Insolvency Event** includes in relation to a person: the person becomes bankrupt or insolvent under laws binding on that person; the person is unable to or states that it may be unable to pay its debts as and when they fall due; the person suspends or threatens to suspend payment of its debts; the person is wound up or dissolved or a meeting is called to consider a resolution to wind up or dissolve the person (other than where the resolution is frivolous); the making of an application or the making of any order, or the passing of any resolution, for the winding up, dissolution, liquidation or bankruptcy of the person other than, in the case of an application or order, the application or order (as the case may be) is set aside within 28 days; the appointment of a provisional liquidator, liquidator, receiver or a receiver and manager or other insolvency official to the person or to the whole or a substantial part of the property or assets of the person; the appointment of an administrator to the person; or the entry by a person into any compromise or arrangement with creditors, unless the event takes place as part of a solvent reconstruction, amalgamation, merger or consolidation of the person or a subsidiary or holding company of the person, provided the person is and remains solvent. **IPR** means all current and future intellectual property rights registered and unregistered. **Licence Fees** means the fees specified in Section 4 of the Schedule, including the Application Software Licence Fees and SaaS Licence Fees. **Licence Restrictions** means restrictions on access to Licensed Software identified in the Specifications, EULA or in a SOW, including any restrictions as to the maximum number of authorised devices or users which are permitted to access the Licensed Software at any one time and includes the "Licence Restrictions" specified in Section 4 of the Schedule. **Licensed Software** means any Application Software, Application Software Support and/or SaaS specified in Section 4 of the Schedule. **Licensor** means the licensor or authorised distributor of the Licensed Software from which CLOUDBLU PTY LTD obtains its licence and/or rights to distribute the Licensed Software to the Customer. **Maintenance** means the making available of Patches and Minor Releases to the Customer within a reasonable time after they become available to CLOUDBLU PTY LTD. **Maintenance Release** means any release of Base Software that is provided or made available to the Customer by CLOUDBLU PTY LTD that primarily incorporates code error fixes and is generally made available by CLOUDBLU PTY LTD without charge to customers in the course of performing Support Services in relation to CLOUDBLU PTY LTD Equipment. **Mandatory Retrofit** means a modification to CLOUDBLU PTY LTD Equipment determined by CLOUDBLU PTY LTD to be necessary for safety. **Minimum Term** means the minimum term specified in the Details plus the duration of any Force Majeure Event notified under clause 14(c)(i). **Minor Release** means a new version of the Licensed Software which provides fixes or minor enhancements, generally indicated by a change in the numbering to the right hand side of the first decimal point in the version numbering of the Licensed Software and which is provided without charge by the Licensor for distribution to the Customer under the Agreement. **MPS Charges** means the charges (if any) specified as the "MPS Charges" in Section 1 of the Schedule. **MPS Services** means MPS Lite, as specified in Section 1 of the Schedule, clause 12 and the relevant MPS Services CED. **National Credit Code** means Schedule 1 of the *National Consumer Credit Protection Act 2009* (Cth). **Non Excludable Rights** has the meaning given to that term in clause 10(a) of the Agreement. **Normal Wear and Tear** means the inherent and natural wear of Products when used within and in accordance with the usage guidelines set out in the Specifications. **Parts** means physical parts delivered by CLOUDBLU PTY LTD in the Equipment as part of Support Services. **Patch** means software, which attempts to rectify, limit or eliminate a Defect in the Licensed Software and which is provided without charge by the Licensor for distribution to the Customer under the Agreement. **Pay Out Funds** means the "Pay Out Funds" amount (if any) specified in Section 2 of the Schedule. **Periodic Support Charge** means the charges (if any) specified as the "Periodic Support Charge" in Section 1 of the Schedule. **PPSA** means the *Personal Property Securities Act 2009*

(Cth). **Privacy Policy** means CLOUDBLU PTY LTD's privacy policy as amended from time to time without notice. The Customer can also ask for the Privacy Policy to be provided to the Customer in an alternative form, such as a hard copy. **Products** means Equipment, Base Software, Consumables and Parts. **Recovered Amount** means any money received by CLOUDBLU PTY LTD, within 30 days from the date the Equipment is lost, stolen, damaged or destroyed, from the Customer's insurance required under clause 4(a)(ii). **Related Body Corporate** has the meaning given in the *Corporations Act 2001* (Cth). **Rental Charges** means the "Rental Charges" specified in Section 1 of the Schedule inclusive of delivery and installation unless otherwise expressly stated. **SaaS** means if specified in the "SaaS Description" field of Section 4 of the Schedule, the software application or other computing infrastructure to be Software Delivered to the Customer as a service from a remote location through the internet, excluding CLOUDBLU PTY LTD Tools. **SaaS Licence Fee** means the "SaaS Licence Fee" specified in Section 4 of the Schedule. **Schedule** means the schedule at the start of this Agreement. **Services** means the Support Services, MPS Services and any Additional Services but excludes Application Software Support. **Site** means the location or locations specified in Sections 1 and 4 of the Schedule. **Small Business Contract (SBC)** means a contract considered as such for the purposes of the Australian Consumer Law. **Software Delivery (and Software Delivered)** means in respect of Application Software, to give the Customer an authorisation key to enable the Customer to download Application Software from an online system nominated by CLOUDBLU PTY LTD or to despatch Application Software to the Customer by carrier or post on physical media; and in respect of SaaS, the Customer registers for SaaS or receives the login details for SaaS (whichever occurs first). **SOW** means any relevant statement of work signed by the parties (if any) in respect of the Products, Application Software, SaaS or Services. **Specifications** in relation to: (i) Products, Services and Licensed Software, means the CED or (where none is available) any end user documentation, manual or specification published by the manufacturer or, in the case of Licensed Software, the Licensor; (ii) CLOUDBLU PTY LTD Tools, means the CED (or where none is available) the technical specifications published by the manufacturer of the CLOUDBLU PTY LTD Tools. **Statement of Notifiable Matters** means CLOUDBLU PTY LTD's statement of notifiable matters as amended from time to time without notice. The Customer can also ask for the Statement of Notifiable Matters to be provided to the Customer in an alternative form, such as a hard copy. **Support Services** means the support services to be provided by CLOUDBLU PTY LTD for Equipment and Base Software as set out in clause 6, excluding Additional Services, Application Software Support and Excess Consumables. **Support Service Charges** means the "Support Service Charges" specified in Section 1 of the Schedule, including the Impression Charges and Periodic Support Charges. **Technical Assistance** means technical assistance via telephone, mail or e-mail for Application Software problems. **Third Party** means a person other than the Customer or CLOUDBLU PTY LTD. **Third Party Equipment** means Equipment that is specified in Section 1 of the Schedule as "Third Party Equipment", being Equipment that is supplied under the Agreement that is not manufactured by CLOUDBLU PTY LTD or its Related Bodies Corporate. **Unwanted Equipment** means the equipment specified in Section 3 of the Schedule.

## 16. Interpretation

Unless the context requires otherwise, the following rules of interpretation apply to these terms and conditions: **(a)** a reference to: **(i)** 'include' or 'for example' means 'including' or 'for example' without limitation; and **(ii)** 'invoice' means a proper tax invoice within the meaning of the GST law; **(b)** if the Customer consists of more than one person, each of those persons shall be jointly and severally liable for the Customer's obligations under the Agreement; **(c)** CLOUDBLU PTY LTD's obligations will be performed during Business Hours; **(d)** if the date on or by which any act must be done under the Agreement is not a Business Day, the act must be done on or by the end of the next Business Day; **(e)** any references to dollars or "\$" are to the lawful

currency of Australia and are, except to the extent stated otherwise, exclusive of any applicable GST; and **(f)** whenever a clause of this Agreement specifies that CLOUDBLU PTY LTD's consent or approval is required or that CLOUDBLU PTY LTD may direct or require the Customer to do or not do some act or thing, or that CLOUDBLU PTY LTD will determine whether an event has occurred or not occurred, then CLOUDBLU PTY LTD will, except to the extent that this Agreement otherwise provides, act reasonably in determining whether or not to give that consent or approval, determining whether that event has occurred or directing the Customer to take some action or satisfy a requirement of CLOUDBLU PTY LTD.