



OneStream Hosting

Service Schedule

1 January 2011

1. About this document

This Service Schedule forms part your Contract. In the event of any inconsistency between this Service Schedule and another clause of your Contract, this Service Schedule prevails to the extent of any inconsistency, but not otherwise.

Any reference to 'Part E' in any application form that you have signed shall be taken to be a reference to this Service Schedule.

2. Dictionary and Glossary of Terms

Term:	Meaning:
Access Documents	as in clause 6(h)(ii)
Ad Hoc Visitor	a person who is not entitled to Regular Access
Associate	as in the <i>Corporations Act 2001</i> (Cth)
Availability Service Level	as in clause 6(i)(i)
Co-location	Hosting
Commencement Date	as in clause 3(a)
Consequential Loss	loss of profits; or loss of revenue; or loss of opportunity; or loss of anticipated savings; or pure economic loss; or loss of data; or loss of value of equipment (other than cost of repair); or expectation loss; or increased operating costs, suffered or incurred by any person whether

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	arising in contract or tort (including negligence) or under any statute, any other form of consequential, special, indirect, punitive or exemplary loss or damages and any third party loss and expressly includes any penalties or fines imposed by an authority exercising functions under any Law.
CPE Service and Management Level	as in clause 6(i)(ii)
Enhanced Service	the Availability Service Level option by that name
Force Majeure Event	an event or circumstance, or combination of events and circumstances which is beyond the reasonable control of a party (excluding a failure to pay any money owing under this Contract)
Holding Over Period	as in clause 4(d)
Hosted Equipment	web server, email server, firewall, router and other hardware (and related cabling) that is stored, or is intended to be stored, at a Hosting Premises in connection with this OneStream Hosting Service (whether or not you are the owner of that equipment)
Hosting	the storage of the Hosted Equipment at the Hosting Premises
Hosting Premises	a physical place in which the Hosted Equipment is stored
Minimum Monthly Charge	the minimum monthly recurring fee or charge that you are required to pay us, as set out in the details of your Plan, the application form, the Schedule of Fees and Charges or as otherwise notified to you by us from time to time
Minimum Term	the minimum term of your OneStream Hosting Service (or any part of your OneStream Hosting Service e.g. in respect of a given Hosting Premises or Service), as set out in your application form, or as otherwise expressly agreed to by the parties in writing
Offer	as in clause 3(b)
OneStream Hosting Service	the Service known as 'OneStream Hosting' and provided to you in connection with this Service Schedule
OneStream VPN and Internet Service	the Service known as 'OneStream VPN and Internet'

Onsite Service	the CPE Service and Management Level by that name
OnsitePlus Service	the CPE Service and Management Level by that name
Personnel	the current and former officers, employees, agents, representatives, contractors and subcontractors, assigns and nominees of a party
PortOnly Service	the CPE Service and Management Level by that name
Premium Service	the Availability Service Level option by that name
Regular Access	as in clause 6(h)(ii)
Related Body Corporate	as in the Corporations Act 2001 (Cth)
Related Entity	as in the Corporations Act 2001 (Cth)
Remote Service	the CPE Service and Management Level by that name
Schedule of Fees and Charges	a document that sets out the fees and charges which apply in connection with your OneStream Hosting Service, whether known by that name or such other name, as made available to you by us from time to time
Smart Hands	the optional component of your OneStream Hosting Service known by that name
Standard Service	the Availability Service Level option by that name
TailOnly Service	the CPE Service and Management Level by that name
Tape Backup	the optional component of your OneStream Hosting Service known by that name
Telehousing	Hosting
<p><i>Capitalised terms which appear in this Service Schedule and are not defined in this clause 0 may be defined in the Customer Terms. For the avoidance of doubt, the Interpretation section in the Customer Terms applies to this Service Schedule.</i></p>	

3. Commencement of this Service

- (a) Your OneStream Hosting Service will be deemed to have commenced in respect of a given Hosting Premises or Service once we notify you that the said Hosting Premises or Service (as the case may be) is available for use by you (“**Commencement Date**”).

- (b) Subject to clause 4(c), unless we notify you in writing to the contrary, we are deemed to have accepted your offer in your application form for us to supply this OneStream Hosting Service to you on the terms and conditions of this Contract (including your application form) ("**Offer**") on the Commencement Date in respect of that Hosting Premises or Service.

4. Term

- (a) For the avoidance of doubt, a separate and independent Commencement Date and Minimum Term will apply in respect of each Hosting Premises and each Service that will be provided in connection with your OneStream Hosting Service.
- (b) The term of your OneStream Hosting Service in respect of a given Hosting Premises or Service commences on the Commencement Date in respect of that Hosting Premises or Service and continues for the Minimum Term and any Holding Over Period in respect of that Hosting Premises or Service, unless terminated earlier in accordance with this Contract.
- (c) If you withdraw (or purport or attempt to withdraw) your Offer in respect of a given Hosting Premises or Service before the Commencement Date, you acknowledge and agree that we may incur costs and expenses in connection with considering your Offer (including, without limitation, costs and expenses associated with us making arrangements with our suppliers in connection with the supply of a Hosting Premises or Service, including termination and withdrawal fees) and you agree that you will immediately pay to us any such costs and expenses upon our request. For the avoidance of doubt, if you withdraw (or purport or attempt to withdraw) your Offer in respect of a given Hosting Premises or Service after the Commencement Date of that Hosting Premises or Service, we may treat your conduct as a repudiation or termination of this Contract, in respect of which you will be liable to pay to us, amongst other amounts, an Early Termination Fee and comply with all of your other obligations that arise upon the termination of this Contract.
- (d) If you do not notify us in writing (in such form as we may reasonably require from time to time) at least thirty (30) days prior to the expiry of the Minimum Term in respect of a given Hosting Premises or Service that you do not intend to renew your OneStream Hosting Service in respect of that Hosting Premises or Service, your OneStream Hosting Service in respect of that Hosting Premises or Service will continue on a month-to-month basis, on substantially the same terms and conditions in respect of that Hosting Premises ("**Holding Over Period**"), terminable by either party on at least thirty (30) days written notice to the other party.

5. Fees and Charges

- (a) Where you are required to pay a Minimum Monthly Charge in connection with a Service, the Minimum Monthly Charge is payable in advance. All other fees and charges in respect of a Service are typically payable by you monthly in arrears, unless otherwise notified to you by us from time to time. The Minimum Monthly Charge in respect of a Service will typically be pro-rated during the first calendar

month of the Minimum Term and the final month of the Minimum Term or Holding Over Period (as the case may be).

- (b) You expressly acknowledge and agree that:
 - (i) all monies that are payable by you in connection with this Contract must be paid prior to the date that we notify you those monies are payable;
 - (ii) from time to time, we may notify you of fees and charges that apply in connection with your Hosting Services (for example and without limitation, in your application form provided to you or in our Schedule of Fees and Charges and those fees and charges may include power usage charges, excess power usage charges and the like.) You will be liable to pay these fees and charges to us;
 - (iii) subject to 5(b)(iv) of this Service Schedule and without limiting our rights under clause (iii)(c), we may, in our sole and absolute discretion, vary any fees and charges that apply in respect of a Service by providing you with thirty (30) days notice of that variation;
 - (iv) if we require to increase your Minimum Monthly Charge beyond the amount contemplated in clause (iii)(c), your sole remedy in respect of the variation will be to terminate your OneStream Hosting Service by providing us with written notice (including full particulars of the reason for your intended termination of your OneStream Hosting Service) within fourteen (14) days of the date we provide you with notice of the variation; and
 - (v) if you fail to provide us with the notice set out in clause 5(b)(iv) of this Service Schedule, then you will be taken to have irrevocably consented to the variation, which variation will commence immediately upon the expiration of the thirty (30) day notice period set out in clause 5(b)(iv) of this Service Schedule.
- (c) Details of our fees and charges in connection with your OneStream Hosting Service is set out in your application form, the terms and conditions of your Plan, our Schedule of Fees and Charges or as otherwise be notified to you by us from time to time.

6. This Service: Details

(a) *Location of Hosting Premises*

- (i) The Hosting Premises in which the Hosted Equipment will be stored is set out in your application form or as otherwise notified to you by us from time to time.

- (ii) We may, from time to time, store the Hosted Equipment in a different Hosting Premises. Where we do so, we will provide you with reasonable notice.

(b) Facilities of the Hosting Premises:

- (i) The facilities available at a given Hosting Premises may be notified to you by us from time to time.
- (ii) You acknowledge and agree that:
 - A. the facilities available at a given Hosting Premises may vary from time to time. Where the facilities vary and we believe that the variation is significant and materially and adversely affects you, we will endeavour to notify you at the earliest practical opportunity; and
 - B. your entitlement to use the facilities (and the terms and conditions in connection with the use of those facilities) are as agreed to by the parties from time to time. Where your use of those facilities exceeds your entitlement to use those facilities (for example, your power consumption requirements exceed your power consumption entitlement), additional fees and charges may apply and you will be required to pay those fees and charges.

(c) Shared Facilities

- (i) Your use of the facilities at a given Hosting Premises may be shared with other users of the facilities.
- (ii) If your application form refers to rack space as being “*shared*” or words to that effect, you acknowledge and agree that:
 - A. the Hosted Equipment stored by you at the Hosting Premises will not be stored in isolation or segregation and may be stored in the same rack space as the Hosted Equipment of another person; and
 - B. other persons may be provided with a key, or other means of access to, that rack space.

(d) Air Conditioning

Where air conditioning and humidity control is available at a Hosting Premises and an air temperature range and/or humidity range is notified to you in respect of the Hosting Premises, any such range is a guide only and the air temperature and/or humidity level may fluctuate from time to time.

(e) Smart Hands

- (i) Your application form may set out whether Smart Hands sessions are available as part of your OneStream Hosting Service.
- (ii) If you exceed the number of Smart Hands sessions that you are entitled to, additional fees and charges may apply. Where appropriate, we will endeavour to contact you to obtain your consent prior to us providing additional Smart Hands sessions which are in excess of your entitlement under your Service.
- (iii) We may, in our sole and absolute discretion, refuse to follow any direction that you give to us in connection with a Smart Hands session where we believe that:
 - A. is unreasonable for us to follow that direction; or
 - B. following the direction may result in loss, damage or harm to the Hosting Premises, any equipment (including the Hosted Equipment) our Network or may cause death, injury or disability to any person.
- (iv) For the avoidance of doubt, and without limiting any other right, indemnity or limitation of liability set out in any clause of this Contract:
 - A. we and our Associates, Related Bodies Corporate and Related Entities (and Personnel thereof) will not be liable to you for any loss, damage or harm to the Hosted Equipment if we have complied with (or attempted to comply with) any direction that you provided to us in connection with a Smart Hands session; and
 - B. you must indemnify us and our Associates, Related Bodies Corporate and Related Entities (and the Personnel thereof) from and against all loss, expense, damage, cost (on a solicitor and client basis) and liability, suffered or incurred by, or claimed or awarded against, us or our Associates, Related Bodies Corporate and Related Entities (and the Personnel thereof) in connection with our compliance (or attempted compliance) with any direction that you provided to us in connection with a Smart Hands session.

(f) Tape Backup Facility:

- (i) Your application form may set out whether a Tape Backup facility is available as part of your OneStream Hosting Service and the details of that facility.
- (ii) If a Tape Backup facility is available as part of your OneStream Hosting Service, you must:
 - A. supply the tapes that will be used in connection with the Tape Backup facility;

- B. ensure that any tapes that you supply to be used in connection with the Tape Backup facility are suitable for your requirements and are compatible with the relevant Hosted Equipment;
 - C. provide us with a schedule, setting out the full particulars of your requirements in respect of the Tape Backup facility (such as the times and dates for the tape backup to occur, the identity of the Hosted Equipment that you require to be backed up, any other relevant particulars and any other particulars that we may request from you from time to time in connection with the Tape Backup facility); and
 - D. ensure that all tapes that will be used in connection with the Tape Backup facility are appropriately, legibly and coherently labelled with the following details:
 - I. your name;
 - II. your customer ID;
 - III. particulars of the precise location of the Hosted Equipment that is required to be backed up in connection with the Tape Backup facility; and
 - IV. any other details that we may require from time to time.
- (iii) If you require off-site storage of the tapes in connection with this Tape Backup facility as part of your Service, you acknowledge and agree that:
- A. the typical period of time required to retrieve a tape that is stored off-site is twenty-four (24) hours; and
 - B. in circumstances where you inform us that you require us to retrieve a tape that is stored off-site urgently, you may incur additional fees and charges that you will be liable to pay. We will exercise best endeavours to inform you of those fees and charges prior to you incurring them.
- (iv) We may, in our sole and absolute discretion, refuse to follow any direction or schedule (or part thereof) that you give to us in connection with the Tape Backup facility where we believe that:
- C. is unreasonable for us to follow that direction or schedule (or part thereof); or
 - D. following the direction or schedule (or part thereof) may result in loss, damage or harm to the Hosting Premises, any equipment (including the Hosted Equipment) our Network or may cause death, injury or disability to any person.

- (v) For the avoidance of doubt, and without limiting any other right, indemnity or limitation of liability set out in any clause of this Contract:
 - A. we and our Associates, Related Bodies Corporate and Related Entities (and Personnel thereof) will not be liable to you for any loss, damage or harm to the Hosted Equipment if we have complied with (or attempted to comply with) the schedule provided to us or with any direction that you provided to us in connection with the Tape Backup facility; and
 - B. you must indemnify us and our Associates, Related Bodies Corporate and Related Entities (and the Personnel thereof) from and against all loss, expense, damage, cost (on a solicitor and client basis) and liability, suffered or incurred by, or claimed or awarded against, us or our Associates, Related Bodies Corporate and Related Entities (and the Personnel thereof) in connection with our compliance (or attempted compliance) with any schedule provided to us or with any direction that you provided to us in connection with the Tape Backup facility.

(g) Testing and Maintenance of Facilities:

- (i) You acknowledge and agree that we may, from time to time, undertake testing and maintenance work in respect of the facilities available at the Hosting Premises (and in connection with the Hosting Premises generally).
- (ii) Where we reasonably believe that any testing and maintenance work (as referred to in clause 6(g)(i)) may significantly and materially and adversely affect your OneStream Hosting Service, your access to the Hosting Premises and the storage of the Hosted Equipment, we will endeavour to provide you with reasonable notice.

(h) Access Procedures:

- (i) Each Hosting Premises is intended be a secure facility. Accordingly, you acknowledge and agree that there are strict procedures with which you and your Personnel must comply. We may notify you of such procedures (including any new procedures) and any changes to existing procedures from time to time and you agree that your access (and the access of your Personnel) to a given Hosting Premises is conditional upon strict compliance with those procedures by you and your Personnel.
- (ii) The table immediately below summarises your obligations in respect of your access to the Hosting Premises:

Access Sought	Summary of your obligations (non-exhaustive)
First Time Visit	Prior to gaining access (or attempting to gain access) to the Hosting Premises, you must ensure that any document that is required by us in connection with access by you or your

	<p>Personnel to the Hosting Premises is signed (“Access Documents”).</p> <p>It is a condition of this Service Schedule that you comply with, and ensure that your Personnel comply with the Access Documents and any reasonable directions that are provided to you or your Personnel at all relevant times.</p> <p>We may also require that a valid form of government issued photo identification be provided by you and your Personnel as a precondition to any access to the Hosting Premises.</p> <p>We may refuse to provide you and your Personnel with any access to the Hosting Premises until such time as:</p> <ul style="list-style-type: none"> (a) all required Access Documents are signed by you or on your behalf; (b) we, in our sole and absolute discretion, are satisfied with the identification provided to us; and (c) we do not otherwise believe a refusal to grant access to be reasonable in the circumstances. <p>You must agree to us accompanying you on your first visit, during which time we will typically provide you with an introduction to the facilities available at the Hosting Premises, inform you of the location of the emergency exits and the like.</p>
Regular Access	<p>If you require a number of people to have regular access to the Hosting Premises (“Regular Access”), you must contact us in order for us to record the details of those persons as being authorised by you to have regular access to the Hosting Premises.</p> <p>Until such time as a person is recorded by us as being authorised by you to have regular access to the Hosting Premises (in accordance with our procedures from time to time), those persons will be treated as Ad Hoc Visitors.</p>
Ad Hoc Visitors	<p>You must provide us with one (1) Business Day notice of any intended access by an Ad Hoc Visitor.</p> <p>We may impose such conditions on the access by the Ad Hoc Visitor as we believe reasonable. Without limiting the forgoing, you acknowledge and agree that we may designate an Ad Hoc Visitor as (without limitation):</p> <ul style="list-style-type: none"> (a) ‘unescorted’ – in which case, the Ad Hoc Visitor will be provided with unsupervised access (save as to except

	<p>video surveillance and monitoring) to the relevant area in the Hosting Premises; or</p> <p>(b) 'escorted' – in which case, the Ad Hoc Visitor will be, at all appropriate times, escorted through the Hosting Premises by a person nominated by you in writing or alternatively, by our Personnel.</p> <p>You acknowledge and agree that where an Ad Hoc Visitor is designated as 'escorted' and we escort that Ad Hoc Visitor (whether you request that we escort that Ad Hoc Visitor or you fail to nominate a person to escort that Ad Hoc Visitor) for a period of time exceeding fifteen (15) minutes, additional fees and charges may apply for which you will be liable.</p>
<p>Emergency Access</p>	<p>In restricted circumstances, emergency access by an Ad Hoc Visitor (on less than twenty-four (24) hours notice) may be able to be arranged by us.</p> <p>We will notify you of those circumstances (and your obligations in connection with the emergency access) following a reasonable request by you for those details.</p>
<p>Access to install, alter or remove equipment</p>	<p>Without limiting your obligations above, if any access to the Hosting Premises is for the purpose of, or is in connection with, the installation, alteration or removal of Hosted Equipment, you must:</p> <p>(a) provide us with one (1) weeks notice (including full and proper particulars) of the intended access;</p> <p>(b) (and ensure your Personnel must) comply with any procedure in connection with the installation, alteration or removal of the Hosted Equipment that we may notify you of from time to time (including in respect of providing us with our required period of notice and completing such forms as we may require);</p> <p>(c) not (and ensure your Personnel do not) do any act which affects, or is in connection with, any equipment and infrastructure which is 'over head', 'under floor' or 'cross connection work' (as may be notified to you by us from time to time);</p> <p>(d) in respect of the installation of Hosted Equipment, ensure that the Hosted Equipment is unpacked, tested and where appropriate, assembled in the area of the Hosting Premises that is designated by us as the 'Staging Area' (or such similar designation as we notify you of from time to time) (which area must be booked by you in advance and is at all times subject to availability); and</p>

	<p>(e) in circumstances where you require emergency access, waive the right to an environment capacity check to determine whether any Hosted Equipment that is proposed to be introduced into the Hosting Premises may be supported by your network or the Hosting Premises generally.</p>
<p>Access Generally</p>	<p>Without limiting the forgoing, it will always be a precondition to gaining access to the Hosting Premises (and the continued access to the Hosting Premises) that you (and your Personnel):</p> <p>(a) provide a valid form of government issued photo identification;</p> <p>(b) wear such security badge that is provided and not remove that security badge from the Hosting Premises;</p> <p>(c) comply with any policy of ours or a reasonable direction given to you by us or by any Personnel of the Hosting Premises in connection with access to the Hosting Premises;</p> <p>(d) do not remove any cabinet or cage keys from the Hosting Premises; and</p> <p>(e) acknowledge (by way of signature on such document as we may require from time to time) the receipt of keys, security badges and such similar items as provided to you in connection with your access to the Hosting Premises, at 'check-in' and acknowledge the return of those items at 'check-out'.</p>

(i) Service Levels:

- (i) Your application form may specify whether you are entitled to:
 - A. Premium Service; or
 - B. Enhanced Service; or
 - C. Standard Service,

("Availability Service Level")

- (ii) Your application form may specify whether you are entitled to:
 - A. PortOnly Service; or
 - B. TailOnly Service; or
 - C. Remote Service; or

- D. Onsite Service; or
- E. OnsitePlus Service,

(“CPE Service and Management Level”)

- (iii) You acknowledge and agree that the features and components of each Availability Service Level and of each CPE Service and Management Level may vary from time to time. Where we reasonably believe that a variation may materially and adversely affect you, we will endeavour to provide you with reasonable notice of that variation.

7. Additional Terms and Conditions

(a) Warranties:

You warrant to us that:

- (i) you understand that it is a condition of us providing this OneStream Hosting Service to you that you are not a person in respect of whom the *TCP Code* applies and you warrant that you are not a person to whom the *TCP Code* applies;
- (ii) you are the owner of the Hosted Equipment or if you are not the owner of the Hosted Equipment, you have all necessary licenses, permits, permissions and consents required to store the Hosted Equipment at the Hosting Premises;
- (iii) you, by entering into this Contract or by storing the Hosted Equipment at the Hosting Premises, will not be in breach of any contractual or other obligation owed to any person;
- (iv) the Hosted Equipment is free from any defects (whether latent or overt) which may cause any loss, damage or harm to the Hosting Premises, our Network, any other equipment or cause death, injury or disability to any person;
- (v) the Hosted Equipment meets any minimum electrical, safety or technical standards or requirements (or such other minimum requirements as may be required by Law, including bearing all necessary regulatory approvals); and
- (vi) you have made your own inquiries in the respect of the fitness of any part of this OneStream Hosting Service for your requirements and you have not relied on any representations that we may have made to you in connection with this OneStream Hosting Service.

(b) No Re-Supply:

You must not, and you are not authorised or entitled to, resell your OneStream Hosting Service and you must not and you are not authorised or entitled to (or

attempt or purport to) lease, sublease, licence, sub-licence, sell, transfer, assign, novate or otherwise grant, provide or confer (or attempt or purport to grant, provide or confer) any of your rights under this Service Schedule (including your right to access the Hosted Premises or store equipment at the Hosting Premises) without our express prior written consent.

(c) Annual Increase of Fees:

You agree that we may increase your Minimum Monthly Charge by 4% per annum on each anniversary of the relevant Commencement Date.

(d) Security for Payment:

To the maximum extent permitted by law, and without limiting any other rights available to us at law and under this Contract, you expressly agree to grant us, as security for any monies that we claim are owing to us (howsoever owing), a lien over all Hosted Equipment stored by you at the Hosting Premises and irrevocably grant to us the right to sell all or part of the Hosted Equipment in the event that both of the following are satisfied:

- (i) you fail to pay to us any monies that we claim are owing to us prior to the date by which we advise you those monies must be paid; and
- (ii) we provide you with written notice at least seven (7) days prior to the date on which we expect that the Hosted Equipment will be sold or offered for sale and you fail to pay to us the monies we claim are owing to us within those seven (7) days.

(e) Termination:

- (i) Without limiting our rights under any other clause of this Contract to terminate your OneStream Hosting Service, we may terminate your OneStream Hosting Service (or any part of your OneStream Hosting Service, for example, insofar as it relates to a given Hosting Premises or Service):

A. with immediate effect if:

- I. you become a person to whom any part of the *TCP Code* applies; or
- II. any other part of this Contract is terminated (including, in respect of a given Hosting Premises); or
- III. you fail to comply with any reasonable direction we provide you in respect of any Hosted Equipment or your access to the Hosting Premises; or

- IV. a Hosting Premises is damaged or destroyed and we reasonably believe that it is no longer practical for the Hosted Equipment (or any part thereof) to be stored at the Hosting Premises; or
 - V. we believe that the Hosted Equipment (or any part thereof) has caused, is causing, or is likely to cause, loss, damage or harm to the Hosting Premises, our Network, any other equipment or cause death, injury or disability to any person, or the ongoing storage or operation of the Hosted Equipment in the Hosting Premises is in, or is likely to be in breach of this Contract or any Law; or
 - VI. you fail to take out or maintain the insurance policy required by clause (i)(f) of this Service Schedule; or
 - VII. you breach a term of this Contract that is not capable of remedy (including, in respect of any Hosting Premises in which the Hosted Equipment is stored); or
 - VIII. you breach a term of this Contract that is capable of remedy but you fail to remedy that breach within ten (10) days of notice from us requiring you to do so; or
 - IX. you breach any Law and we believe that it is reasonable to terminate your OneStream Hosting Service with immediate effect; or
- B. for any reason on 180 days notice.
- (ii) Upon the termination, completion or expiry of your OneStream Hosting Service (or any part of this OneStream Hosting Service, for example, insofar as it relates to a given Hosting Premises or Service), you must:
- A. immediately remove all Hosted Equipment from the affected Hosting Premises (save as to except any Hosted Equipment that is subject to the lien described in clause (iii)(d) of this Service Schedule which you must not remove) and remedy any damage caused by the removal;
 - B. immediately pay all monies which we have advised, or will advise, you are owing to us;
 - C. return any cards, keys, access codes, security passes and the like which facilitated access to, and the use of the facilities in, the affected Hosting Premises;
 - D. comply with any reasonable direction we may give to you; and
 - E. pay any Early Termination Fees which are owing to us under this Contract.

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- (iii) Clause (iii)(e)(ii)E does not apply in circumstances where your OneStream Hosting Service (or any part of your OneStream Hosting Service) is terminated under clause (iii)(e)(i)B of this Service Schedule.
- (iv) The Early Termination Fee is calculated as follows:

Date of Termination	Calculation of Early Termination Fee
During the first twelve (12) months of the Minimum Term	$m \times n$
At any time following the first twelve (12) months of the Minimum Term until the expiry of the Minimum Term	$0.5 \times (m \times n)$ unless a different formula is specified on your application form in respect of a particular Service in your OneStream Hosting Service (in which case, that different formula applies in respect of that Service)
Holding Over Period	<i>Nil</i>

where:

m = the Minimum Monthly Charge specified by us in respect of your OneStream Hosting Service (or part thereof); and

n = the number of months (or part thereof) remaining until the expiration of the Minimum Term of your OneStream Hosting Service (or part thereof).

- (v) You acknowledge and agree that the Early Termination Fee, calculated in accordance with the mechanism immediately above, is a genuine pre-estimate or our loss that arises as a result of the termination of your OneStream Hosting Service (or part thereof).

(f) Risk of Loss and Damage:

- (i) You expressly acknowledge and agree that you will bear the entire risk of all loss or damage, however so arising, to any Hosted Equipment and any software or data on the Hosted Equipment.
- (ii) You must, at all times during the term of this Contract, maintain an insurance policy with an insurance company that has a place of business in Australia that includes cover for any property damage and personal injury which may arise in connection with your use of any part of your OneStream Hosting Service (including the storage of the Hosted Equipment at any Hosting Premises). The insurance policy must:
 - A. be obtained from a reputable and solvent insurer;
 - B. have an insured value of at least \$30,000,000.00;

- C. include cover for loss, damage or harm to the Hosted Equipment, our Network, the Hosting Premises, the equipment of any third party and include cover for injury, death or disability to any person in connection with this Service; and
- D. be evidenced to us upon a request by us to you (for example, by producing to us a certificate of currency).

(g) Condition and Maintenance of Equipment:

You must, at your sole cost and expense (unless otherwise agreed in writing):

- (i) ensure that all Hosted Equipment is appropriate, adequately maintained and meets all minimum standards as required by Law, the manufacturer of the Hosted Equipment, this Contract or as reasonably required by us and advised to you from time to time;
- (ii) ensure that all Hosted Equipment is separately fused;
- (iii) ensure that all Hosted Equipment is properly configured;
- (iv) arrange for the delivery of Hosted Equipment to the relevant Hosting Premises;
- (v) arrange for the installation and testing of the Hosted Equipment at such time and in such area within the Hosting Premises that we may require in our sole and absolute discretion. You acknowledge and agree that we may require such installation and testing to occur outside of the hours of a Business Day;
- (vi) do all things necessary to satisfy the technical and environmental operational standards in respect of the Hosted Equipment;
- (vii) ensure that the Hosted Equipment is labelled at all times using such labelling systems and naming conventions as we may require in our sole and absolute discretion from time to time;
- (viii) ensure that an accurate inventory of all of the Hosted Equipment (including cable layouts, cards installed and spares on hand) is maintained at the relevant Hosting Premises and a copy of that inventory is provided to us;
- (ix) ensure that an accurate contact list of your Personnel who are authorised or responsible for attending to faults with, and maintenance of, the Hosted Equipment is maintained at the relevant Hosting Premises and a copy of that list is provided to us;
- (x) ensure that an accurate list of all circuits installed (specifying pairs, carrier(s) and where they are terminated) is maintained at the relevant Hosting Premises and a copy of that list is provided to us;

- (xi) ensure that any locks in any Hosting Premises is not changed, that additional locks are not used or that any other act is not done which has the effect of preventing, restricting or limiting our access to the Hosted Equipment or any part of any Hosting Premises (including access to the Rack space);
- (xii) pay to us upon request, all fees, charges, costs and expenses in connection with all routine and emergency maintenance of, and repairs to, the Hosted Equipment;
- (xiii) pay to us upon request, all fees, charges, costs and expenses in connection with the management and maintenance of your network (that you are not otherwise entitled to as part of your Service);
- (xiv) cooperate with, and provide assistance to, us in good faith in connection with identifying, confirming and resolving faults and undertaking maintenance in respect of the Hosted Equipment, each relevant Hosting Premises and in connection with this Service generally;
- (xv) ensure that all equipment and cabling that connects the Hosted Equipment to the Network will provide an appropriate transmission quality to the Network;
- (xvi) comply with all Laws and this Contract;
- (xvii) ensure the area of each Hosting Premises in or around the area in which the Hosted Equipment is stored is, at all times, maintained in a safe and tidy state and in the same condition that those areas were in at the Commencement Date. If you fail to maintain those areas in that state, you acknowledge and agree that we may do any act required to make that area safe and tidy (as determined by us) and restore that area to the condition it was in at the Commencement Date; and
- (xviii) ensure that no alterations, demolitions or additions (whether structural or otherwise) are made to any part of a Hosting Premises unless we expressly authorise you to do so in writing.

(h) Further Acknowledgements:

Without limiting the acknowledgements provided by you in this Contract, you further expressly acknowledge and agree that:

- (i) without limiting our rights in clause (iii)(e)(i)V, if we, in our reasonable opinion, believe that the Hosted Equipment (or any part thereof) has caused, is causing, or is likely to cause, loss, damage, harm or destruction to any part of the Hosting Premises, our Network, or any other equipment or has, or may cause, death, injury or disability to any person, or the ongoing storage or operation of the Hosted Equipment is in, or is likely to be in breach of this Contract or any Law, we may disconnect, shut down, turn off, remove from any Hosting Premises or otherwise deal with, the affected Hosted Equipment (at your sole cost and expense). Where we do so and where it is reasonable (having regard to actual or

likely loss, damage, harm, death, injury or disability) we will endeavour to provide you with twenty-four (24) hours notice to remedy the situation prior to us taking the action in respect of the Hosted Equipment as set out in this subclause;

- (ii) access to the Hosting Premises may be video monitored and you will procure the consent of all your Personnel to be video monitored prior to the time that they access the relevant Hosting Premises, or where that is not practical, at the earliest practical opportunity thereafter;
- (iii) we may access and inspect the Hosted Equipment at any time to determine whether or not you are complying with your obligations under this Contract or any Law, to rectify any breach by you or to exercise any right that we have under this Contract;
- (iv) we may require you to, at your sole cost and expense, and on at least three (3) months written notice, move the Hosted Equipment to another area within the relevant Hosted Premises for any reason (or to such other Hosted Premises provided it is reasonable for us to require you to do so);
- (v) upon request by us, you will provide us with any necessary agency authorisation reasonably required by us in connection with our rights or obligations in this Contract;
- (vi) if you have requested a connection to our Network, additional fees and charges may apply;
- (vii) we do not make any representations to you, or provide you with any assurances, that our Network is a secure and confidential method of communications and any transmission of data by you on our Network is done so at your own risk;
- (viii) we are not responsible for any transmission of data across our Network;
- (ix) we have not made any representations or warranties in relation to the fitness for purpose of this OneStream Hosting Service or in respect of any Network security and to the maximum extent permitted by Law, we will not be liable to you in that regard; and
- (x) you have made your own independent assessment (and you have solely relied on that assessment) in respect of whether this OneStream Hosting Service (or any part thereof) is fit for the purpose you require prior to entering into this Contract.

(i) No Lease or Licence:

For the avoidance of doubt, this Contract does not grant you or our Personnel any proprietary rights in or any licence to occupy or access any part of any Hosting Premises (save as to except the extent to which your occupation or access is expressly authorised by this Service Schedule).

(j) No Relationship:

Nothing in this Service Schedule constitutes a relationship of employer/employee, licensor/licensee, lessor/lessee or constitutes a joint venture relationship.

(k) Indemnity:

- (i) Without limiting the indemnities set out in other clause of this Contract, you must indemnify, and forever keep indemnified, us and our Associates, Related Bodies Corporate and Related Entities (and the Personnel thereof) from and against all loss, expense, damage, cost (on a solicitor and client basis), penalty, fines, fees and liability, suffered or incurred by, or claimed or awarded against, us or our Associates, Related Bodies Corporate or Related Entities (or Personnel thereof) in connection with:
- A. any breach or threatened breach of this Contract (including this Service Schedule) by you or of any Law;
 - B. any penalty, fee or fine imposed under any Law in connection with a breach or threatened breach of this Contract (including this Service Schedule) by you or of any Law;
 - C. any loss, damage or harm caused to any part of any Hosting Premises, our Network and any other equipment in connection with your use of this Service and the storage of the Hosted Equipment at the Hosting Premises;
 - D. any death or disability of or injury to any person in connection with your use of this Service and the storage of the Hosted Equipment at any Hosting Premises;
 - E. the installation, operation, maintenance or removal of the Hosted Equipment;
 - F. any defects (whether latent or overt) or faults in the Hosted Equipment;
 - G. the negligent or intentional acts or omissions of you or your Personnel; and
 - H. any failure by you or your Personnel to comply with any reasonable direction from us or to comply with the terms and conditions of any policy or procedure that we required you to comply with.
- (ii) In respect of the indemnities given in this Service Schedule in favour of a party that is not a party to this Contract:
- A. the indemnities are intended to be, and are, directly enforceable by each such person;

- B. we act as agent for each such person for the purposes of the indemnities; and
- C. the indemnities operate as a deed poll in favour of each such person.

(l) Limitation of Liability:

- (i) To the maximum extent permitted by law, we and our Associates, Related Bodies Corporate and Related Entities (and the Personnel thereof) will not be liable to you or your Associates, Related Bodies Corporate or Related Entities (or the Personnel thereof) for any loss, expense, damage, fee, fine, penalty or liability suffered or incurred by, or claimed or awarded against you or your Associates, Related Bodies Corporate or Related Entities (or the Personnel thereof) in connection with your OneStream Hosting Service.
- (ii) For the avoidance of doubt, we (or our Associates, Related Bodies Corporate and Related Entities) will never be liable to you for any Consequential Loss.
- (iii) Where our liability or the liability of our Associates, Related Bodies Corporate or Related Entities (or the Personnel thereof) cannot be excluded at Law, the extent of liability will be limited to whichever of the following is the lesser in cost or expense:
 - A. the resupply of the relevant part of your OneStream Hosting Service; or
 - B. a payment to you of the cost of having the relevant part of your OneStream Hosting Service resupplied; or
 - C. to the maximum extent permitted by Law, the value by which your loss, expense, damage, fee, fine, penalty or liability exceeds the amount covered by the insurance policy you are required to take out and maintain in accordance with clause (i)(f)(ii) of this Service Schedule.

(m) Service Outages:

- (i) We may, from time to time, perform maintenance work that may affect your OneStream Hosting Service, including your access to a Hosting Premises. Any disruption caused to your OneStream Hosting Service will not constitute a breach of our obligations under this Contract.
- (ii) Where possible, we will exercise our reasonable endeavours to perform maintenance work at such time to minimise a disruption to your OneStream Hosting Service and to your access to a Hosting Premises.

(n) *Survival of Rights:*

The termination, completion or expiry of your OneStream Hosting Service does not affect:

- (i) the indemnities and limitation of liability in this Service Schedule;
- (ii) any rights that have accrued unconditionally in connection with this Service Schedule; and
- (iii) any other clauses of this Service Schedule, which, by their nature, are intended to survive the termination, completion or expiry of your OneStream Hosting Service.

(o) *Force Majeure:*

We will not be liable for a failure to perform, or a delay in performing, any obligation in connection with your OneStream Hosting Service if the failure or delay arose as a result of a Force Majeure Event, provided that we used our reasonable endeavours to notify you of the Force Majeure Event as soon as practical.

(p) *Severance:*

If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause **is** illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Service Schedule, but the rest of this Service Schedule is not affected.

8. Availability of Rebates

- (a) You are not entitled to any rebate in connection with this OneStream Hosting Service unless:
 - (a) your OneStream Hosting Service is acquired and maintained by you at all times in conjunction with a OneStream VPN and Internet Service; and
 - (ii) your OneStream Hosting Service is an 'Additional Service' for the purposes of the OneStream VPN and Internet Service (in which case you will only be entitled to a rebate if you are entitled to a rebate in accordance with the OneStream VPN and Internet Service Schedule).
- (b) For the avoidance of doubt, if you receive a rebate in accordance with the OneStream VPN and Internet Service Schedule in respect of your OneStream Hosting Service, you are not entitled to any further rebate under this Service

Schedule in connection with the same facts, matters and circumstance that gave rise to your claim for a rebate.

9. Your Welcome Pack

- (a) Please refer to your OneStream Welcome Pack for all your account management contacts and support numbers.
- (b) In the event of any inconsistency between this Service Schedule and your Welcome Pack, this Service Schedule prevails.