

TERMS AND CONDITIONS - MANAGED SERVICES

The Supplier will provide managed services to the Customer in accordance with the Managed Services Agreement and in accordance with these Terms and Conditions.

The Supplier's Master Terms and Conditions apply to this Agreement.
([Master Terms and Conditions](#))

The Managed Services Agreement is open for acceptance by the Customer for 30 days from the date of issue. This must be signed by the Customer and returned to the Supplier to be accepted by the Customer.

1 Supplier: Contact details

Supplier:	ET Group Pty Ltd trading as Essential Tech
Address:	Level 11, 157 Ann Street, Brisbane City QLD 4000
Telephone:	+61 7 3174 5000
Primary contact person:	Simon Edmed
Telephone:	07
Email:	simon@essentialtech.com.au

2 Customer: Contact details

Customer:	[Click here to enter Customer name]
Address:	[Click here to enter Postal address]
Telephone:	[Click here to enter Telephone number]
Primary contact person:	[Click here to enter Primary contact person]
Telephone:	[Click here to enter Telephone number]
Email:	[Click here to enter Email address]

3 Managed Services

Refer to the proposal above for details of the Managed Services to be provided and related details.

4 Service Levels

Refer to Appendix 2 for details of the Service Levels.

Support hours (for purposes of services levels) are as follows:

Standard Support Hours:

Monday to Friday 8am to 6pm

Excl Public Holidays

QLD time

After Hours, for P1 incidents only, are:

All other times

5 Pricing and payment

Managed Services

The Managed Services pricing is on basis of:

- per user
- fixed monthly fee
- tiered according to number of users
- the plan that you have selected according to your MSA.

The Managed Service pricing can be increased but not decreased during the initial term or current renewal term (as applicable).

Pricing may increase due to increases in numbers of users/devices as described in this Agreement. Pricing may also be increased annually.

Payment

Pricing is in AUD, excluding GST

Monthly charges: Monthly in advance

Other charges: Monthly in arrears

Payment terms within 30 days following date of invoice

Price increases

At Essential Tech's sole discretion, an annual CPI increase or 5% increase (whichever is higher) may be applied on the annual renewal of recurring services agreements.

At Essential Tech's sole discretion, an annual CPI

	increase or 5% increase (whichever is higher) may be applied on our out of scope charge rates. See clause 14.
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6 Term

Commencement date:	Within 30 days of the date of signing by both parties.
Term:	<p>36 Months from start of billing</p> <p>Renewal terms</p> <p>Each renewal term has the same duration as the initial term.</p> <p>Unless otherwise agreed in writing, this Agreement will renew for a renewal term if:</p> <ul style="list-style-type: none">(a) the Supplier provides not less than 30 days written notice prior to expiry of the initial term or current renewal term (as applicable) of the upcoming expiry of that term <p>Unless otherwise agreed in writing, this Agreements will not renew if:</p> <ul style="list-style-type: none">(b) the Customer confirms in writing to the Supplier not less than 21 days prior to the expiry that they do not wish to renew the Agreement. <p>Any renewal of this Agreement will be on the same terms and conditions as this Agreement, subject to any increase in price and any other changes notified to the Customer in the Supplier's written notice given under (a) above or otherwise agreed in writing between the parties. The initial term and any renewal term is subject to the termination provisions in the Master Terms and Conditions.</p>

7 Insurance

7.1 Supplier's insurance

The Supplier will have and maintain the following insurances for the term of this Agreement and for 1 year following expiration of termination of the Agreement.	
Professional indemnity insurance	To the value of \$10 million
Public liability insurance	To the value of \$20 million

7.2 Customer's insurance

Cyber liability insurance	<p>To a minimum value of \$1 million</p> <p>The Customer must ensure this insurance is in place for the term of this Agreement and for 1 year following expiration or termination of this Agreement.</p>
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8 **Personal Data and Data Protection**

8.1 Refer to the 'Personal Information' provisions in the Master Terms and Conditions.

9 **Liability**

9.1 Except as provided in clause 9.2 and any limitations of liability included in the Appendices to this Agreement and Terms and Conditions (including without limitation the limitation of liability under section 7.3 of Appendix 1), the liability provisions in the Master Terms and Conditions apply to this Agreement.

9.2 Each party's liability to the other party under this Agreement is limited to direct loss only, to the amount paid by the Customer under this Agreement in the three month period preceding the event giving rise to the claim provided that nothing in this clause 9.2 serves to limit the Customer's obligation to pay invoices due under this Agreement.

10 **In these Terms and Conditions:**

"After Hours" (where applicable) means outside of Business Hours;

"Business Hours" means 8am-6pm on Working Days; QLD time;

"Exception Factors" means factors described in section 6 of Appendix 1;

"Incident" means an issue in respect of the Managed IT Environment or an issue that the Customer is experiencing in accessing or using the Managed IT Environment (otherwise than due to the user having less than a level of training or knowledge than could be reasonably expected by the Supplier);

"Managed IT Environment" means the customer's IT environment or specified part of it that is managed by the Supplier under the Managed Service, as specified in section 1 of Appendix 1 and as varied under Change Control (refer to section 2 of the Appendix 1);

"Managed Services" means the managed services to be provided to the Customer, as described in section 3 of Appendix 1;

"Request for Assistance" means a request for assistance made by the Customer that is not in connection with an Incident and is not service required as a result of an Exception Factor;

"Service Levels" means the service levels in section 5 of Appendix 2;

"Working Day" means a day other than a Saturday, Sunday or public holiday in QLD.

APPENDIX 1

MANAGED SERVICES

11 Managed IT Environment

(a) In Scope (The Managed IT Environment that is In Scope for the Managed Service):

The Managed Service relates to the third party products and applications described in the table below in this section 1. The Managed Service does not include a remedy for defective or faulty equipment or components, or failure of third party services. Where applicable, the Supplier can assist with escalating warranty and defective product/application issues to the relevant third party supplier.

The Managed IT Environment is the following items, as approved and confirmed by the Supplier on or prior to Commencement Date. Changes to the Managed IT Environment are made via change control under section 2 below or as agreed in writing between the parties.

Component of Managed IT Environment	Any changes to the following after Commencement Date must be procured and setup by Supplier or otherwise reviewed and approved by the Supplier. Procuring and setup work, and review/approval work is outside of the scope of this Agreement.
Users' work devices and applications	One laptop or desktop computer per user One mobile phone per user including VoIP if supplied and installed by Supplier Applications on devices that have been approved by Supplier Email programs and message delivery Windows and security updates Antivirus software
Servers and applications	Windows System and Applications Application upgrades Windows update and patches
Network components	Routers Firewalls Switches
Your line of business applications	Essential Tech will provide 1 st line support for service requests relating to your third party vendor systems. We will try to resolve issues where we can. We will escalate it to your third party vendor directly.

12 Change Control

2.1 Changes to the Managed IT Environment will be controlled by email or other written communication between the parties. Where a change to the Managed IT Environment requires a change to the pricing for the Managed Service, that pricing change will be notified by the Supplier to the Customer in writing and will be implemented and charged to the Customer accordingly.

13 Managed Service Details

13.1 The Managed Service is as per the Agreement and is provided in relation to the Managed IT Environment except to the extent of Out of Scope factors in relation to the Managed IT Environment or the Managed Service, and subject to Customer meeting its obligations under this Agreement and subject also to the Exception Factors.

Type	Managed Service	Managed Service Description
Users	User Support for In Scope	As requested by staff. Refer to Service Requests and Service Levels in sections 1 and 5 of Appendix 2
	Pro-active machine management	Includes the following (additional machine management services may be included as deemed appropriate at Supplier's discretion): <ul style="list-style-type: none"> • Disk Space • Windows and Security updates on users Work device • Antivirus management • Temporary File Clean Up
Servers	Remote support tasks required on Windows System and Applications	As requested by staff or triggered by an RMM Alert. Refer to Service Requests and Service Levels in sections 1 and 5 of Appendix 2
	Application upgrades	During Supported Ours
	Disk space management	Managed by RMM Alerting
	Backup monitoring and resolution where issues exist	Managed by Backup Reporting
	Backup Testing	Automated Backup Testing included with Annual Manual test included in Elite Plan
	Windows update and patch management	Automated Patching with Manual Remediation on failure
	Performance Management	Monitoring of Performance by RMM with Alerts being resolved by Service Desk

Network	Support relating to network connectivity or performance	
	Configuration management	All devices <ul style="list-style-type: none"> • Firewall • Switches • Wireless • Routers
	Firmware upgrades to equipment	
	Security patches to equipment	
Third Party Products and Services	Provided with Managed Service: List the third party products and services included as part of the Managed Service, if any.	

13.2 Third party products and services supplied to Customer:

- (a) The Managed Service includes supply of third party products and services (listed as ‘Provided with Managed Service’ in table above, if any). Third party products and services are supplied subject to the relevant third party’s terms and conditions which are available on request from the Supplier. By signing this Agreement, the Customer is deemed to accept those third party terms and conditions and the Supplier is authorised to accept the third party terms and conditions on behalf of the Customer when the Supplier procures, installs and/or provides setup services for the Customer in respect of the third party products and services included in the Managed Service.
- (b) Third party products and services used by Supplier to provide Managed Service: The Supplier uses third party products and services to provide the Managed Service. For some of these third party services (such as remote monitoring and management tools, ‘RMM’), an ‘agent’ is installed on the Customer’s devices and other equipment (as applicable). The Customer acknowledges and consents to the use by the Supplier of such third party products and services, including the installation (where applicable) of an agent on the Customer’s devices and other equipment. Where the relevant third party supplier’s terms and conditions include terms and conditions requiring acceptance by the Customer (including for example to the installation of the agent), by signing this Agreement 1) the Customer is deemed to accept those third party terms and conditions and 2) the Supplier is authorised to accept the third party terms and conditions on behalf of the Customer when the Supplier procures such third party services in respect of the Managed Service to be provided to the Customer and and/or, if applicable, when the Supplier installs the agent on the Customer’s devices and other equipment (as applicable) in order to provide the Managed Service.

14 **Out of scope**

The following are out of scope for this Managed Service. Where services in relation to the following are provided by the Supplier, the services will be charged at the Supplier's standard rates.

- (a) Out of scope:
 - Equipment that is not covered by warranty;
 - All or any part of any home networks;
 - Any application on a user's work device not approved by the Supplier;
 - Equipment which is primarily for personal use (not for business purposes);
 - Any machine where the operating system or application is not under support or extended support from the vendor for the Customer.
 - Line of business applications that have no vendor support, or expired support.
- (b) Data restoration;
- (c) Recovery work following any cyberattack;
- (d) Services required to investigate, diagnose and/or provide a remedy in relation to external factors;
- (e) Any work that is required due to an Exception Factor;
- (f) After Hours Support (unless specifically included in your contract). After Hours Support will be billed at \$450 per hour, minimum 1 hour charge, and then billed in 15 minute increments;
- (g) Onsite Support (unless specifically included in your contract). Onsite Support (Field Services) will be billed at \$185 per hour, plus travel, minimum 1 hour charge, and then billed in 15 minute increments, plus incidentals such as parking;
- (h) Adds/Moves/Changes which are for small pieces of work, expected to be less than 4 hours of work, which are not covered in the scope of the Managed Services Agreement. For example, migrations. Adds/Moves/Changes will be billed our standard tech rates per hour, billed in 15-minute increments;
- (i) Project Delivery, for projects that are expected to be 4 or more hours of work, which are not covered in the scope of the Managed Services Agreement. These will be scoped on a separate SOW. Such as but not limited to a new office setup or office move. Project Delivery will be billed at a minimum 1-hour charge, and then billed in 15-minute increments;
- (j) Support beyond first line support, for Third Party software, applications or equipment that was not procured by Essential Tech;
- (k) Procurement of new equipment;
- (l) Workstation installations and reimaging (Except for Elite Plan).

- (m) Setting up of a new user will be billed as per the fixed fee list. (Except for Elite Plan).
- (n) vCIO Consulting
- (o) The purchase of miscellaneous equipment such as cables.
- (p) Other ad hoc charges, such as travel costs, travel time, mileage, couriers etc.

15 **Customer responsibilities**

The Customer must:

- (a) maintain support contracts with all relevant third party suppliers;
- (b) ensure there is no deliberate damage to any aspect of the Managed IT Environment;
- (c) notify the Supplier immediately when it becomes aware of any Incident, to prevent further issues.
- (d) Notify the Supplier of business changes such as the signing of a new lease.

16 **Exception Factors**

The Supplier has no obligation to address or remedy an Incident where the Incident has arisen due to any of the following Exception Factors:

- (a) issues resulting from the Customer's use of infrastructure (including IaaS/PaaS), networks, devices, internet connections, software or services where the relevant infrastructure, network, device, software or service is not included in the Managed IT Environment;
- (b) the failure or poor performance of the Customer's power source and/or power supply;
- (c) any additions, changes or modifications made to the Customer's operating system, environment or equipment except where made or approved by the Supplier;
- (d) the Customer not acting on a recommendation from the Supplier that additions, changes or updates to the Managed IT Environment are required;
- (e) changes made by a third-party provider of software, services or equipment;
- (f) any third party act, omission or circumstance including without limitation any cyberattack or network outage (and including any cyberattack on the systems or services used by the Supplier to provide the Managed Service) which results in unavailability of all or any part of the Managed IT Environment, whether malicious or not (other than where the third party is a subcontractor engaged by the Supplier) or any unauthorised access to the Managed IT Environment;

- (g) wilful damage by any person including without limitation any current or former member of the Customer's staff (employees and/or contractors);
- (h) any situation, event, system or network outage, defect or other factor (except where the Supplier has directly caused that situation, event, outage, defect, or other factor), which impacts the availability or proper functioning of any component of the Managed IT Environment or the Customer's access to Data, where the impact of that situation, event, outage, defect or other factor is experienced not only by the Customer but also by other businesses and users, including without limitation a Windows update issue, antivirus update issues or system outage by upstream providers; or
- (i) a Force Majeure Event.

The Supplier may, at its sole discretion, agree to provide assistance with resolving Incidents that have arisen due to an Exception Factor and if and when it does so:

- (j) the work will not be undertaken under this Agreement but under as a separate engagement for a Project under the Professional Services Terms and Conditions and additional charges will apply; and
- (k) the Supplier accepts no responsibility for resolving the issue and the Service Levels in section 5 of Appendix 2 do not apply.

17 **Cybersecurity services**

17.1 Without limiting clause 6 above and notwithstanding that any work in respect of an Exception Factor is to be carried out under a separate agreement and at additional charges, the Customer acknowledges that:

- (a) if the Supplier undertakes any recovery work following a cybersecurity incident:
 - i. recovering from a cybersecurity incident is or may be complex and time-consuming and is dependent on factors which are outside of the control of the Supplier (including successful functioning of the third party security product);
 - ii. while the Supplier will use its best endeavours on any recovery work, where this work is required the Supplier gives no guarantee that the recovery will be successful or complete;
- (b) where any ransom is demanded in relation to a ransomware attack, it is the Customer's responsibility to meet that demand and the Supplier has no obligation to and will not meet that ransom demand.

17.2 The Customer acknowledges and accepts that the Supplier is not responsible for cybersecurity incidents however caused, including without limitation where the incident is due to any of the following:

- (a) failure or improper functioning of any third party security product;
- (b) any unauthorised access to the third party security product;
- (c) any unauthorised access (including without limitation by the Customer's staff) to the Customer's network, systems, devices, applications, services or data (including but not limited to the systems, devices included in the Managed IT Environment, and related data);
- (d) Any actions by the customers end users which leads to a security incident;
- (e) a Force Majeure Event.

18 **Backup failures**

18.1 Where the Managed Service includes backup services, the Customer acknowledges that the Supplier is not responsible for backup failures, including without limitation where the failure is due to any of the following:

- (a) failure or improper functioning of any third party backup service or product;
- (b) any third party act, omission or circumstance, whether malicious or not (other than where the third party is a subcontractor engaged by the Supplier) or any unauthorised access to the third party backup service or product or to the backed up data;
- (c) If the customer has their own backup system not provided by Essential Tech;
- (d) a Force Majeure Event.

APPENDIX 2

SUPPORT & SERVICE LEVELS

19 Service Requests

Making Service Requests: The Customer may make service requests in respect of any Incident as follows:

Service request logging procedure	Service requests can be logged, for example by phone, email, Teams App or via our service desk portal.
Telephone request hours	Support hours (for purposes of services levels) are as follows: Standard Support Hours: Monday to Friday 8am to 6pm Excl Public Holidays QLD time
Authorised Contacts	Authorised contacts as specified in the Account Application Form
Customer obligations	Customer is to provide a summary of the incident with as much detail as possible, including screen shots

20 Third party involvement

The Customer acknowledges that the Supplier may need to work with third parties for resolution of an Incident and the Customer agrees to the Supplier doing so, subject to the position on additional charges in section 3 below.

Customer's support agreements with other vendors: The Customer is required to maintain current support agreements with all relevant third parties. Where required to resolve an Incident, the Supplier will liaise with the Customer and either work with or hand over the Incident to the relevant third party. On handover, the timing in the Service Levels ceases to apply.

21 Additional charges

Third party vendors or third party products/services: where the Supplier needs to involve the services of a third party vendor or to purchase a third party product or service for resolution of an Incident, an additional charge may apply. The Supplier will provide an estimate for approval by the Customer before incurring the cost, provided that the Customer will not unreasonably withhold approval.

22 Exclusions

The support available under this Appendix does not include services for any issues in respect of Exception Factors, including any issues that in the Supplier's reasonable opinion are due to an Exception Factor.

The Supplier may, at its sole discretion, agree to provide assistance with resolving issues of the type described in this section 4 and if and when it does so, the Supplier accepts no responsibility for resolving the issue and the Service Levels in section 5 below do not apply. The Supplier may charge the Customer its standard rates for professional services for undertaking any work of the type described in this clause 4 regardless of whether or not the issue is resolved by that work.

23 **Service Levels (SLAs)**

The response times and target remedy times are within Business Hours only, unless expressly agreed otherwise by the Supplier in writing. Timing ends on escalation to third party support.

If the Customer has After Hours cover:

- the Supplier provides After Hours service for Priority 1 (P1) issues only);
- if the Customer assigns Priority 1 to an Incident and it is not a P1, the Supplier may charge for the work required to investigate and diagnose the Incident at its After Hours' rates.
- if a Customer that has After Hours cover requests the Supplier to provide services After Hours for any Incident that is not P1, and the Supplier agrees to provide the required services, the work will be charged at the Supplier's After Hours' rates.

Urgency Definitions

High	Can no longer perform primary work functions
Medium	Work functions impaired, a workaround is in place
Low	Inconvenient but can still work

Impact Definitions

Company Wide	A Business Unit, Department or a Site
Multiple Users	Just a small number of users
Single User	A single User

Ticket Type Definition

Ticket Type	Explanation	SLA Applies
Incident	Any issue affecting normal business operations	Yes – Use Matrix
Change Request	A user-initiated change request, desk relocation, new office, moving office, any changes that are not part of standard business operations	No
Service Request	Onboarding, Offboarding Users, and service requests that are part of usual business	Yes – P5
Problem	When multiple issues are raised for a single problem, all incidents are merged	Yes – Use Matrix

SLA Response Times

Incident Priority Classes	Incident Acknowledgement Time	Target Response Time	Target Resolution Time *
P1 - Critical	30 Minutes	2 Hours	4 Hours
P2 - Urgent	30 Minutes	Same Business Day	1-2 Business Days
P3 - Major	30 Minutes	Same Business Day	2-3 Business Days
P4 - Ordinary	30 Minutes	Next Business Day	2-4 Business Days
P5 – Service Request	1 Hour	Next Business Day	2-5 Business Days

*This excludes faults outside of Essential Tech’s direct control, such as fibre optic or copper cable breaks in the carriage network, power outages at sites not owned and managed by Essential Tech and failure of any Customer-owned and operated equipment.

24 Service Level exclusions

Where any of the Exception Factors apply (see section 16 of Appendix 1), the Service Levels do not apply.