



F7 Digital

MANAGED SERVICES AGREEMENT

This Services Agreement [SA] is the agreement under which F7 DIGITAL NETWORKS provides Managed Services to the Client.

MANAGED SERVICES AGREEMENT

1. Definitions

- 'We', 'Our', 'Us' and 'F7 DIGITAL NETWORKS' refer to F7 DIGITAL NETWORKS Pty Ltd, ABN 20640883665.
- 'You', 'Your', 'Client', 'Customer' and 'Applicant' refer to the Client whose details appear in the Managed Services Proposal.
- 'Services Agreement' and 'SA' refer to this Services Agreement.
- 'Agreement' collectively refers to any Agreement (and their associated Schedules and Catalogues), Proposals, Quotations, Statement of Works or other agreement signed by the client.
- 'Services Proposal' and 'Managed Services Proposal' refers to an online or written document which includes the term 'Managed Services Proposal' or includes a quotation to deliver one or more Managed Services to the Client. A Managed Services Proposal details the particulars of the Managed Services we have agreed to provide to you.
- 'Managed Services' is the provision of outsourced services to the Client by F7 DIGITAL NETWORKS for the purpose of managing and supporting your technology. Managed Services are only supplied to the Client when this Services Agreement is active.
- 'On-Demand' and 'Hourly Rate Services' refer to services provided by F7 DIGITAL NETWORKS which are charged to the client based on labour (time) spent providing the service.
- 'Professional Services' and 'Professional Service' refers to projects, consulting and other services which are individually scoped and quoted. They may be quoted as On-Demand (hourly rate) or as a fixed-price service.
- 'Term' refers to the minimum initial contract term, or any agreed renewed term of the contract.
- 'Modules' are the components or individual services packages listed in the Services Proposal. Each module contains a description of the Managed Services to be provided, including inclusions and exclusions. These details are available online at <https://F7Digitalnetworks.com.au> by following the hyperlinks for each module listed in the Services Proposal.
- 'Services Catalogue' and 'SC' refers to a version of the Modules, containing the same information as the online Modules, in a written (electronic or printed) format.
- References to Modules and Services Catalogue are interchangeable in this Services Agreement and are taken to have the same meaning.
- 'Service Start Date' is the date that F7 DIGITAL NETWORKS commences the provision of technical support or Service Desk services.
- The capitalized form of these words has the same meaning as the lower-case form of these words

2. Managed Services

- **2.1. Modules (or Services Catalogue)**

The Modules form part of our Services Agreement with you.

The Modules are updated from time to time to keep them relevant for current technology and technology support possibilities, and to reflect new or changed F7 DIGITAL NETWORKS support options.

Where those updates provide you with **extra services** (or alter services that you are not currently purchasing from F7 DIGITAL NETWORKS), the changes can be made by advising you of the change without any requirement to provide notice.

Should those updates remove services, the changes will not take effect until the end of your current Term, or if not currently in a Term agreement, on the provision of 60 days' written notice unless otherwise agreed by both parties.

- **2.2. Services included in your Service Agreement**

The services we are providing to you within the fixed-fee Managed Services are those services included for the Modules you are purchasing as per the initial Services Proposal or any subsequent variation to a Services Proposal.

If for a Module in the Services Proposal:

- Specific systems are listed: support is only included for those listed systems.
- A specific quantity of systems are listed: support is only included for the specified quantity of systems.

If your support requirements or technology changes, we will provide a proposal to amend the included modules or supported systems.

- **2.3. Staff Numbers**

- *2.3.1. Pricing based on Staff Range*

The Services Proposal specifies that pricing is based on staff numbers being in a specified range. Within this range, the per-person pricing does not change. If your staff numbers increase above the range, or fall below the range, F7 DIGITAL NETWORKS reserves the right to amend the per-person pricing.

- *2.3.2. Calculation of Staff Count*

Who is included and excluded The Staff Count for the purpose of billing of Managed Services is based on the following:

Included in Staff Count:

- Any person who is currently involved in the operation or management of your business and who utilises any IT services provided by your business. This includes employees and contractors, part-time staff and people who are on leave but still have active user accounts on your IT systems.

Excluded from the Staff Count:

- Service accounts for vendors (including F7 DIGITAL NETWORKS and application vendors).
- Active user accounts that belong to former staff/contractors.

◦ 2.3.3. Unique Circumstances

If your business has a unique employment arrangement (for example, you have 100 staff but 50 only use mobile devices and email), we will factor this situation into our per-person pricing and note the details in the Services Proposal. All staff will be included in the Staff Count. If this situation changes (eg: the mix of staff changes), pricing will be adjusted accordingly.

◦ 2.3.4. Determination of Staff Count

F7 DIGITAL NETWORKS determines the Staff Count based on reports from various electronic systems, such as User Account systems. We will make a current list of staff members included in the count available to you or through other means. The Staff Count, calculated by F7 DIGITAL NETWORKS, on the Scheduled Billing Date will be used for the purpose of billing monthly services

◦ 2.3.5. Discrepancies in Staff Count

We encourage you to regularly review the list of current staff and to advise us of any discrepancies at the earliest opportunity. We will review the information provided by you and adjust the Staff Count if an error has been made.

Discrepancies and Direct Debits:

- Where the client believes that the calculation of Staff Count used to process a Direct Debit was incorrect, the client must advise F7 DIGITAL NETWORKS of the suspected discrepancy within 30 days of the Direct Debit. Within 14 days of that advice, F7 DIGITAL NETWORKS will review the discrepancy and will apply an adjustment to the client's account.

Discrepancies and Invoices:

- Where the client believes that the calculation of Staff Count used to process an invoice was incorrect, by the due date of the invoice, the client must (1) advise F7 DIGITAL NETWORKS of the suspected discrepancy and (2) pay the invoice based on the number of staff the client believes to be accurate. F7 DIGITAL NETWORKS will review the discrepancy and if an error has been made, will issue an amended invoice.

• 2.4. Onboarding of New Systems

At the beginning of the Term (or at any time that F7 DIGITAL NETWORKS is requested to provide Managed Services for a system we have not previously managed), we need to onboard the system into our support processes. This involves a combination of auditing or collecting information about the system, creating documentation, establishing support processes, configuring management tools, rectifying issues and training our team.

◦ 2.4.1. Onboarding fees

When you purchase a new Managed Services module, or you add a new system to a module you currently purchase, an onboarding fee may be charged. Such fees will be quoted to you in advance of the onboarding process.

◦ 2.4.2. Resolution of existing issues during Onboarding

If existing issues with your technology are to be rectified as part of the onboarding fee, this will be specified in writing in the Onboarding section of the Services Proposal or in an accompanying quotation. Additional fees may apply for rectification of other existing issues. We encourage you to inform us of any known issues. We can also perform a pre-proposal audit (for an additional fee) if you are uncertain about the condition of your technology.

- **2.4.3. Issues discovered during Onboarding**

Within the first 45 days after the commencement of the onboarding process, if we discover issues which in our professional opinion existed prior to the onboarding process, we reserve the right to charge On-Demand fees for any support services relating to that issue, until such time as the issue is rectified.

- **2.4.4. Acceptance of new Systems**

Where another party (ie: not F7 DIGITAL NETWORKS) has implemented a new system which is to be managed by F7 DIGITAL NETWORKS, support for that new system will be provided at On Demand rates until such time as F7 DIGITAL NETWORKS accepts in writing handover of the new system. We will not unreasonably withhold fixed-price support, however, we do expect that the new system is free from significant error and accurate documentation of sufficient detail has been provided to our support teams. Onboarding fees may apply.

- **2.5. Lifecycle and Capability**

The classification of systems with respect to their Lifecycle and Capability is at F7 DIGITAL NETWORKS sole reasonable assessment. We will provide you with detailed justification of our assessment as requested.

In relation to systems categorised as 'Red' in the Lifecycle and Capability Report, the client acknowledges that it is fair and reasonable for the F7 DIGITAL NETWORKS Service Desk to advise your staff that F7 DIGITAL NETWORKS is unable to rectify the issue due to your IT systems being beyond their Lifecycle or Capability. Both parties acknowledge that it is preferable that the wording of this message is agreed in advance. In the absence of an agreed message, F7 DIGITAL NETWORKS maintains the right to advise staff accordingly.

F7 DIGITAL NETWORKS reserves the right to charge On-Demand fees for the provision of any services associated with systems categorized as 'Red' on the Lifecycle and Capability Report

- **2.6. On Demand Fees for Out-of-Scope Services**

If On-Demand (hourly rate) fees apply to any service, where reasonably possible, we will give you advance notice and seek your approval before performing work. In some situations, such as during Critical Incidents, it may not be practical to seek your approval before performing work.

3. Term & Termination

- **3.1. Minimum Term**

Unless otherwise agreed in writing, the minimum contract term is 36 months (Term).

The Term is not intended to lock you into a long-term contract. Rather, it gives you certainty over pricing (refer to Section 4.2).

- **3.2. Commencement Date**

The Service commences on the Service Start Date

- **3.3. Post-Term**

At the end of the initial or any renewed Term, the Services Agreement is ongoing until terminated by either party in accordance with the termination clauses below.

- **3.4. Termination as a Last Resort**

Both parties enter this Services Agreement with the intention of the Services Agreement continuing for the full initial term and any future agreed terms. Both parties agree that where there is a dispute, termination of the Services Agreement must be treated as a last resort and other remedies should be utilized if they can reasonably address the concerns of the injured party. Alternative remedies may include giving the other party an opportunity to rectify the breach, an adjustment to historical or future fees and/or mediation of the dispute.

- **3.5. Our Right to Suspend or Terminate**

We can suspend, restrict or cancel the provision of Managed Services if:

1. You are in material breach of the Services Agreement and other alternative remedies would be insufficient to mitigate the breach. Services Agreement 4 F7 Digital Networks Pty Ltd, ABN: 20640883665
2. There is a force majeure event which prevents us from providing the Service.
3. Your account is overdue, and we have exhausted all reasonable attempts to bring your account within trading terms.

In all cases, wherever possible, we will advise you in writing of any breach and give you a reasonable opportunity to rectify that breach or agree to other remedies rather than suspending, restricting or terminating the Services Agreement.

Outside of a Term, we may terminate the Services Agreement without cause by giving at least 60 days' written notice.

- **3.6. Your Right to Terminate**

- **3.6.1. At the end of the Term**

You can cancel the Services Agreement at the end of Term by giving at least 60 days' written notice before the end of the Term. The service will then terminate at the end of the Term, or such later date as you have advised.

- **3.6.2. Outside of a Term**

You can cancel the Services Agreement when outside of a Term (either the initial Term or any subsequent Term) by giving at least 60 days' written notice.

- **3.6.3. At any time during the Term without Cause**

You may terminate the Services Agreement at any time without Cause on the provision of six (6) months' written notice. It is our preference to continue providing services during this entire notice period. If you wish to terminate support services prior to the end of the 6 months' notice, the full monthly Managed Services fees for the balance of the 6 month notice period are payable.

- **3.6.4. During a Term with Cause**

You can terminate the Services Agreement if:

- We are in material breach of the Services Agreement and other alternative remedies would be insufficient to mitigate the breach.

In all cases, wherever possible, you will advise us in writing of any breach and give us a reasonable opportunity to rectify that breach or agree to other remedies rather than terminating the Services Agreement.

- **3.7. Onboarding Fees**

If we permitted the payment of any onboarding fees in instalments, you are also required to pay the balance of all remaining instalments on termination of the Services Agreement.

4. Fees & Billing

Fees are outlined in this Services Proposal and may consist of a combination of fixed per-person, per-site or per-system fees. Fees are monthly exclusive of GST.

- **4.1 Billing**

Fixed-fee amounts are **Direct Debited** at the beginning of the period (in advance) on the agreed Billing Date (generally the 1st of the month unless otherwise agreed). A pro-rata fee may apply to the first monthly payment where relevant. If a Direct Debit arrangement is not established or is cancelled by the client, the client must make arrangements to have the fixed-fee component paid on the first business day following the beginning of the period.

- **4.2 Variation to Fees**

Fees for any Modules you have purchased are fixed for the first 12 months of a Term. Whilst in Term, fees for each Module will be adjusted every 12 months from the Service Start Date by the greater of (a) the annual CPI (All Groups) over the last 12 months ending in the most recent quarter or (b) the annual WPI (Wage Price Index) over the last 12 months ending in the most recent quarter or (c) 2%, with the increase being capped in all cases at 4%.

CPI and WPI data is taken from the ABS website at: <https://www.abs.gov.au>

Following the Term or when the Services Agreement is ongoing outside of a Term, F7 DIGITAL NETWORKS may amend fees on provision of at least 60 days' notice.

5. Administrator Account Access

As we are managing your IT, we have no issue with you having Administrator privileges to your system. However, as we are also providing a fixed-price service, we incur significant additional labour costs if changes are made to your system without our knowledge.

We have no objection to the Client or nominated vendors having Administrator Account credentials with the following conditions and limitations.

- Some vendor licensing products which we may provide, such as Microsoft SPLA Subscription Licensing, prohibits F7 DIGITAL NETWORKS from providing administrator rights to systems on which this software is installed. Administrator credentials will not be provided for these systems.
- Credentials will not be provided to any F7 DIGITAL NETWORKS Managed Products or Outcome as a Service solutions (those systems provided to you on a subscription basis where F7 DIGITAL NETWORKS provides the hardware, software and solution).
- When we manage your technology, our engineering teams maintain **strict change management** controls on all systems. ALL parties who are provided with Administrator Account credentials are required to sign an "Administrator Account Agreement" which stipulates how the credentials may be used. If we believe, in our reasonable opinion, that any unauthorized changes have been made to the system, we reserve the right to charge additional On-Demand fees for any labour performed by us to remedy issues caused by the change, to audit the systems and update documentation

6. Professional Services

• 6.1 Introduction

Professional Services are projects, changes, consulting, and other services which are individually scoped and quoted

• 6.2 Fees

For each Professional Service, a separate quotation/proposal will be provided to you for approval. We may quote a Fixed-Price or OnDemand (hourly) fee, or a combination of both corresponding to different phases/components of the engagement.

Unless otherwise stated, pricing for Professional Service quotations is fixed for 30 days from date of proposal.

◦ 6.2.1 Fixed Price Components

*Where a Professional Service is quoted as a Fixed Price, F7 DIGITAL NETWORKS is agreeing to provide a specific outcome for an agreed price. The fixed-price services apply to the **stated scope of services** only. Changes to the scope may result in a variation to the pricing (increase or decrease as applicable). Fixed-price quotations may also specify assumptions, expectations on other parties, and limitations/exclusions. Any additional services required due to these matters not being met/satisfied may incur additional fees.*

- **6.2.2. On-Demand Components**

Where a Professional Service is quoted as On-Demand, the Client is agreeing to a variable (time-based) fee for the specified services.

F7 DIGITAL NETWORKS may provide indicative hours for the service to assist you in budgeting. These indicative hours are based on our estimated effort to deliver the stated scope of services. These indicative hours are provided for reference only and do not represent an offer to provide a fixed-price or capped-price service. F7 DIGITAL NETWORKS will charge for all labour provided, which may be lower or higher than the indicative hours. Where possible, F7 DIGITAL NETWORKS will provide revised indicative hours if the scope of these services changes.

Whilst On-Demand hourly rates will ordinarily be provided at the current Hourly Rate Fee, F7 DIGITAL NETWORKS may quote different hourly rates (which may be lower or higher) for Professional Services.

- **6.3. Billing**

F7 DIGITAL NETWORKS may provide specific payment arrangements as part of the Professional Services proposal/quotation. In the absence of such arrangements, F7 DIGITAL NETWORKS may issue an invoice at any time for the services provided, including progress invoices.

7. On-Demand Services

- **7.1. Introduction**

'On-Demand' services apply to all services provided to the Client by F7 DIGITAL NETWORKS that is not otherwise covered by a fixed price Managed Service or Professional Service.

- **7.2 Fees**

On-Demand services are charged based on time, in accordance with the current 'Hourly Rate. On-Demand services are invoiced based on time spent providing the service, irrespective of the outcome. In providing IT services, some service episodes may take more time than expected, and some may take less time than expected. If any 'estimated time' is provided when we quote On-Demand services (or other wording to this effect), this is only an estimate and notwithstanding that F7 DIGITAL NETWORKS will make reasonable endeavours to communicate significant variations to the original estimate, actual time will be charged.

- **7.3 Service Level Agreements**

No Service Level Agreements specifically apply to On-Demand services.

- **7.4 Billing**

F7 DIGITAL NETWORKS may issue an invoice at any time for the services provided. This may include but is not limited to (a) at the completion of the work, (b) monthly and/or (c) progress invoice if work is ongoing

8. Confidentiality

Each party agrees and undertakes that it will keep confidential and will not use for its own purposes without the prior written consent of the disclosing party any information of a confidential nature which may become known to the receiving party from the disclosing party ("Confidential Information"), unless: (i) such disclosure is otherwise permitted or contemplated by this document; (ii) the information is publicly known or already known to the receiving party at the time of disclosure; (iii) the information subsequently comes lawfully into the possession of the receiving party from a third party; or (iv) disclosure is required by court order or otherwise by law.

The Client agrees, on behalf of itself, its employees and agents, that it will not, other than to employees and Directors of the Client, distribute, provide a copy or allow viewing of any Agreement, Service Catalogue, Service Schedule, Price List, Proposal, Quotation, Strategy Advice or any other F7 DIGITAL NETWORKS document, without the express written permission of the F7 DIGITAL NETWORKS Managing Director.

The content of any F7 DIGITAL NETWORKS branded document provided to the Client by F7 DIGITAL NETWORKS is proprietary information and is the intellectual property of F7 DIGITAL NETWORKS Pty Ltd and must not be used in any manner without the prior approval of F7 DIGITAL NETWORKS. The F7 DIGITAL NETWORKS name and logo must not be removed from any document without the prior written permission of F7 DIGITAL NETWORKS.

9. Limitations and Exclusions

- **9.1 Services Excluded from all Fixed-Price Services**

All services resulting from the following events and/or actions are excluded from all fixed-price services. On-Demand fees will apply to all services provided by F7 DIGITAL NETWORKS (including but not limited to investigation, repair, recovery, reconfiguration, and reporting) resulting from these events and actions:

- Malware, hacking and other exploits, whether suspected or actual.
- Environmental damage including but not limited to fire, flood, water, heat, natural disaster, building damage or electrical damage.
- Intentional or malicious damage caused by you, your staff or any other party, whether the damage be to physical equipment, software, data or configuration.
- Errors or changes made by you, your staff, your suppliers or other parties.

- Failure of the clients' other vendors or suppliers to provide their contracted services, or to provide their services with due care.
- Failure of systems that are not part of the scope of the services being provided by F7 DIGITAL NETWORKS.

- **9.2. Disclaimer of Warranties and Limitations of Liability**

Any use by you of goods and services provided by us is at your own risk. The goods and services are provided "as is," and F7 DIGITAL NETWORKS make no warranties of any kind to the maximum extent permitted by law, with respect to the goods and services, including but not limited to warranties of quality, performance, merchantability, fitness for any particular purpose, conformity to any representation or description, or non-infringement. To the extent not prohibited by applicable law, F7 DIGITAL NETWORKS' aggregate liability, whether for breach or in tort, is limited to; In the case of services, the fees paid by Customer for the six months immediately preceding the event giving rise to such liability or; In the case of goods, the cost of those goods. In no event will F7 DIGITAL NETWORKS be liable for any indirect, punitive, special, incidental or consequential damages in connection with or arising out of the products and services provided by F7 DIGITAL NETWORKS (including but not limited to any lost profits, lost savings, loss of customers, loss of, or loss of use of, any software, data, web traffic, or emails, business interruption,) however caused and regardless of the legal theory of liability, even if F7 DIGITAL NETWORKS has been previously advised of the possibility of such damages, and even if any exclusive remedy provided for herein fails of its essential purpose. F7 DIGITAL NETWORKS does not warrant that the goods and services are error-free or that operation of the services will be uninterrupted.

Essential Basis. You acknowledge and agree that the disclaimers, exclusions, and limitations of liability set forth in this section form an essential basis of this Services Agreement and have been relied on by both of us, and that absent such disclaimers, exclusions and limitations of liability, the terms and conditions of this Services Agreement and the fees applicable to all F7 DIGITAL NETWORKS services would be substantially different.

10. General Terms and Conditions

- **10.1. GST**

All prices quoted by F7 DIGITAL NETWORKS in all documents are exclusive of GST unless otherwise noted. GST will be added to each Tax Invoice.

- **10.2. Waiver**

The failure of a party to exercise or enforce any right under this Services Agreement shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.

- **10.3. Assignment**

You must not assign any rights or benefits under these terms and conditions unless you have obtained our prior written consent. Any assignment by you without our consent shall entitle us to avoid any liability we may have to you under this Services Agreement.

- **10.4. Jurisdiction**

All contracts between F7 DIGITAL NETWORKS and the Customer shall be deemed to have been entered into in the State of Victoria and shall be construed according to the Laws of the State of Victoria.

- **10.5. Notifications**

Any written notification provided in relation to this Services Agreement or other F7 DIGITAL NETWORKS Agreement must be provided to: Managing Director, F7 DIGITAL NETWORKS, Ground Floor, 470 St Kilda Road, Melbourne VIC 3004