

## Digital Services Agreement

### 1. Parties and Scope

- 1.1. This Agreement is between the Service Provider and the Customer identified in the relevant Order.
- 1.2. It governs the Customer's acquisition and use of the Services.
- 1.3. The commercial terms of the Services, including fees, term, and scope, will be set out in a proposal, order form, subscription schedule, scope of work, project plan, or similar document agreed by both parties (each an Order).
- 1.4. No rights in the Services are granted except as expressly set out in this Agreement.

### 2. Definitions

In this Agreement:

**Agreement** means this Digital Services Agreement together with any Orders, schedules, appendices, and documents expressly incorporated into it.

**Customer** means the entity identified as the customer in the relevant Order.

**Authorised User** means any employee, contractor, or representative of the Customer authorised to access or use the Services.

**Business Day** means a day other than a Saturday, Sunday, or public holiday in Queensland, Australia.

**Customer Data** means all electronic data, documents, and materials submitted, stored, processed, or generated by the Customer or its users through the Services.

**DocuWare Cloud Services Agreement** means the DocuWare cloud services agreement, together with its data processing agreement, schedules, exhibits, service descriptions, and related policy or contractual documents, as amended from time to time.

**Implementation Success Program** means the rebate program offered by the Service Provider under which the Customer may receive a rebate on Professional Services fees upon successful completion of agreed implementation milestones.

**Order** means a commercial document accepted by both parties which specifies the Services, fees, subscription term, and related commercial details. An Order does not amend this Agreement or expand the Service Provider's warranties, indemnities, liability, service commitments, or Vendor Terms pass-throughs unless it expressly states that it amends this Agreement and is signed by both parties in accordance with clause 18.2.

**Professional Services** means implementation, process analysis, solution design, project management, configuration, training, testing, integration, and related consulting services.

**Service Provider** means Ion Business Solutions Pty Ltd trading as ion smart business solutions, including its authorised affiliates and subcontractors.

**Services** means the products and services supplied under an Order, including software subscriptions, vendor-hosted cloud services, implementation, configuration, integration, training, Smart Service Support, and related consulting or support services.

**Smart Service Support** means the Service Provider's support component that includes three (3) hours of system support per month, excluding new process design or implementation work, with additional support charged at standard rates.

**Software Monthly Subscription** means the recurring subscription fee payable for continued access to the Services.

**Vendor Terms** means, for any third-party hosted or managed cloud service forming part of the Services, the applicable third-party provider's cloud services agreement, service description, policy documents, data processing terms, service levels, or similar governing terms, as amended from time to time.

### 3. Authorised Use

- 3.1. The Services may only be used by the Customer's Authorised Users, unless otherwise agreed in writing.
- 3.2. Subject to this Agreement, the Service Provider grants the Customer a revocable, non-exclusive, non-transferable, non-sublicensable licence during the applicable term to use the Services for the Customer's internal business purposes.
- 3.3. The Customer is responsible for all use of the Services by its Authorised Users.

### 4. Acceptable Use Restrictions

- 4.1. The Customer and its Authorised Users must not:
  - a) licence, sublicense, resell, rent, lease, or otherwise commercially exploit the Services for a third party;
  - b) send spam or unlawful communications;
  - c) upload or store infringing, obscene, defamatory, unlawful, or harmful material;
  - d) introduce viruses, malware, or other harmful code;
  - e) interfere with the integrity, security, or performance of the Services;
  - f) attempt to gain unauthorised access to the Services or related systems;
  - g) use the Services to build or benchmark a competing product or service; or
  - h) permit use by a direct competitor of the Service Provider or relevant software vendor without consent.
- 4.2. The Customer must promptly notify the Service Provider of any unauthorised use of the Services or misuse of access credentials.

### 5. Third-Party Availability and Maintenance

- 5.1. Where any part of the Services is hosted or operated by a third-party provider, including DocuWare, the availability, maintenance, updates, upgrades, and technical operation of that part of the Services are subject to the applicable Vendor Terms.
- 5.2. The Service Provider does not independently warrant or guarantee the availability, uptime, maintenance windows, hosting environment, or infrastructure of any third-party hosted platform beyond any rights or remedies expressly passed through under the applicable Vendor Terms.
- 5.3. The Service Provider may, but is not obliged to, notify the Customer of significant third-party outages, maintenance events, or platform changes of which it becomes aware.

### 6. Customer Responsibilities

- 6.1. The Customer is responsible for obtaining and maintaining the internet access, equipment, systems, licences, approvals, credentials, and third-party permissions required to use the Services.
- 6.2. The Service Provider is not responsible for defects, delays, failures, or performance issues caused by the Customer's systems, infrastructure, connectivity, third-party environment, or failure to provide required access, data, approvals, or permissions.
- 6.3. The Customer is responsible for backing up or archiving its data outside the Services unless this Agreement expressly states otherwise.
- 6.4. The Customer is responsible for determining whether the Services are suitable for its legal, regulatory, operational, document retention, privacy, security, and industry-specific requirements.

- 6.5. If the Service Provider spends time addressing an issue that is ultimately caused by the Customer's environment or a non-Service issue, that time may be charged at the Service Provider's standard rates.

### 7. Data Use and Privacy

- 7.1. The Customer grants the Service Provider and its relevant licensors, subcontractors, and cloud providers the right to host, copy, store, transmit, process, back up, and otherwise use Customer Data as reasonably necessary to provide, support, secure, and improve the Services.
- 7.2. The Customer warrants that it has obtained all rights, consents, and permissions necessary for the use, processing, transfer, and storage of Customer Data through the Services.
- 7.3. The Customer is solely responsible for the content of Customer Data and for ensuring that its use of the Services complies with applicable law.
- 7.4. To the extent the Service Provider processes personal data on behalf of the Customer, it will do so in accordance with the Customer's lawful instructions and any applicable data processing agreement.
- 7.5. Where any part of the Services is hosted or operated by a third-party provider, the relevant infrastructure-level hosting, backup, privacy, and security controls are provided by that provider under the applicable Vendor Terms. The Service Provider's role in relation to such services is limited to procuring, configuring, supporting, and coordinating them.
- 7.6. To the extent the Service Provider becomes aware of a personal data breach affecting Customer Data in the Service Provider's control, or receives notice from a relevant third-party provider of a personal data breach affecting the Services, the Service Provider will notify the Customer as soon as reasonably practicable and provide reasonable cooperation in relation to the Customer's compliance with applicable privacy laws. For clarity, the Service Provider does not assume responsibility for the infrastructure, hosting environment, or security controls of any third-party hosted platform beyond the rights or remedies expressly passed through under the applicable Vendor Terms.

### 8. Fees and Payment

- 8.1. The Customer must pay the fees specified in the relevant Order.
- 8.2. Subscription and recurring fees are payable in advance unless the Order states otherwise.
- 8.3. Payment is due when specified in the Order and is only received when cleared funds reach the Service Provider's nominated account.
- 8.4. If the Customer fails to pay an amount when due, the Service Provider may suspend the Services or terminate this Agreement for non-payment after giving at least ten (10) days' written notice and an opportunity to make payment.
- 8.5. Overdue amounts may bear interest at the rate of 8% per annum above the official cash rate set by the Reserve Bank of Australia, or such rate as permitted by applicable law, accruing daily and compounding quarterly.
- 8.6. Unless otherwise stated in an Order, the Software Monthly Subscription fee will increase by five percent (5%) each year on the 1<sup>st</sup> of July.
- 8.7. The Service Provider may increase fees on at least thirty (30) days' written notice where external factors, including inflation, exchange movements, vendor cost increases, taxes, or regulatory changes, materially affect service delivery costs.
- 8.8. If an introductory or discounted subscription price applies for an initial period, the standard undiscounted fee, plus any applicable escalation, will apply after that period unless otherwise agreed in writing.
- 8.9. Fees are exclusive of GST and other applicable taxes unless expressly stated otherwise.
- 8.10. The Customer may not withhold, deduct, or set off any amount due except to the extent of a credit issued by the Service Provider or an undisputed amount established by final court order.

### 9. Intellectual Property and Ownership

- 9.1. As between the parties, the Customer retains all right, title, and interest in and to the Customer Data.
- 9.2. As between the parties, the Service Provider retains all right, title, and interest in and to its pre-existing intellectual property, software, tools, templates, methodologies, configurations, documentation, know-how, and all modifications, improvements, and derivative works of them.
- 9.3. Unless expressly agreed otherwise in writing, no ownership in the Service Provider's intellectual property transfers to the Customer under this Agreement.
- 9.4. To the extent necessary for the Customer to receive the benefit of the Services, the Service Provider grants the Customer a non-exclusive, non-transferable licence during the applicable term to use deliverables provided under this Agreement for the Customer's internal business purposes.
- 9.5. Nothing in this Agreement restricts the Service Provider from using general knowledge, skills, experience, ideas, concepts, techniques, or know-how retained in the unaided memory of its personnel, provided it does not misuse or disclose the Customer's Confidential Information.

### 10. Proposal Notes and Commercial Terms

- 10.1. Pricing in the relevant Order is in Australian Dollars and exclusive of GST unless stated otherwise.
- 10.2. Unless otherwise agreed in writing, payment for Professional Services will be made in three tranches:
  - a) 50% before project commencement;
  - b) 30% at the midpoint of the Professional Services delivery timeline, as set out in the applicable Order, Project Plan, or Scope of Work; and
  - c) 20% upon user acceptance testing.
- 10.3. Any pricing or scope described before detailed technical scoping remains indicative only until confirmed in the relevant Order or implementation document.
- 10.4. The Customer's DocuWare Cloud subscription is conditional on execution of the DocuWare Cloud Services Agreement and monthly payment by debit order.

### 11. Third-Party and DocuWare Cloud Services Terms

- 11.1. The Customer's use of third-party hosted or managed cloud services forming part of the Services, including DocuWare-hosted cloud services, is subject to the applicable Vendor Terms, which are incorporated by reference to the extent relevant.
- 11.2. If there is any inconsistency between this Agreement and the Vendor Terms:
  - a) this Agreement prevails as between the Customer and the Service Provider in relation to the commercial relationship, risk allocation, liability, and general obligations; and
  - b) the Vendor Terms prevail in relation to the technical operation, hosting, infrastructure, security, data processing, retention, deletion, and availability of the relevant third-party platform.
- 11.3. The Service Provider acts as a reseller, implementation partner, and support partner in relation to third-party hosted services, and does not independently guarantee the underlying third-party platform beyond any rights or remedies expressly passed through under the applicable Vendor Terms.

### 12. Controlled and Uncontrolled Scope Changes

- 12.1. Any change to agreed scope, deliverables, timelines, assumptions, or fees must be approved in writing by both parties before implementation.
- 12.2. Approval may be given electronically.

12.3. The relevant Order, Project Plan, or Scope of Work, and the related fees and timelines, will be updated accordingly before additional work proceeds.

### 13. Term and Termination

- 13.1. This Agreement commences on the date the initial Order is executed and continues for the term stated in the relevant Order unless terminated earlier in accordance with this Agreement.
- 13.2. Unless otherwise stated in the Order, after the initial term this Agreement continues month-to-month unless either party gives at least thirty (30) days' written notice of termination or non-renewal.
- 13.3. Either party may terminate for convenience after expiry of the initial minimum term on at least thirty (30) days' written notice. After the initial term, the Customer may also reduce scope on the same notice basis, subject to the Order.
- 13.4. If the Customer terminates before expiry of the initial term other than for the Service Provider's material breach, the Customer must pay:
  - a) the committed Software Monthly Subscription fees for the balance of the initial term; and
  - b) any unpaid Professional Services fees already agreed or incurred.
- 13.5. If a third-party software or platform provider materially changes pricing, scope, or terms, or ceases or suspends supply, and that materially adversely affects the Service Provider's ability to continue supplying the affected Services on a commercially reasonable basis, the Service Provider may terminate the affected Services or this Agreement on at least thirty (30) days' written notice. The Customer will then be entitled to a pro-rata refund of unused prepaid fees for the affected Services.
- 13.6. Either party may terminate immediately for material breach if the breach is not cured within twenty-eight (28) days after written notice.
- 13.7. The Service Provider may terminate if a third-party provider terminates its relationship with the Service Provider and the Service Provider can no longer lawfully or practically provide the affected Services.
- 13.8. Either party may terminate immediately if the other becomes insolvent, bankrupt, enters liquidation or receivership, or makes an assignment for the benefit of creditors.
- 13.9. On termination or expiry, the Service Provider will maintain Customer Data within the Services for at least sixty (60) days after the effective termination date and, on request, give the Customer an opportunity to retrieve it.
- 13.10. After that grace period, and no later than ninety (90) days after termination, the Service Provider may delete or render unrecoverable remaining Customer Data.
- 13.11. Where any part of the Services is hosted by a third-party provider, data access, export, retention, and deletion for that part of the Services remain subject to the applicable Vendor Terms and technical limitations.
- 13.12. Termination does not affect accrued rights or obligations, including payment obligations arising before the termination date.
- 13.13. If the Service Provider terminates for the Customer's breach or non-payment during a fixed term, all fees that would have become payable for the balance of that fixed term become immediately due and payable.

### 14. Warranty and Support

- 14.1. The Service Provider warrants that it will provide the Services in substantial accordance with this Agreement and the applicable Order.
- 14.2. If the Services fail to conform to that warranty, the Customer must promptly notify the Service Provider in writing with reasonable detail.
- 14.3. The Service Provider will use reasonable efforts to remedy a properly notified Defect within a reasonable time, including by providing fixes, workarounds, upgrades, or support.
- 14.4. If the Service Provider determines in good faith that a Defect cannot be remedied without unreasonable effort or cost, or the underlying vendor is unable or unwilling to correct it, the Service Provider may terminate the affected Services and provide a pro-rata refund of unused prepaid fees for those Services, as the Customer's sole and exclusive remedy.
- 14.5. A Defect means a material deviation in the quality or functionality of the Services from the service scope, functionality, or specifications expressly described in this Agreement, the applicable Order, or applicable Vendor Terms.
- 14.6. A Defect must be reproducible or evidenced by system logs or error output, and must have a material adverse effect on the usability of the Services.
- 14.7. The Customer must cooperate with the Service Provider in diagnosing and resolving any Defect.
- 14.8. This warranty does not apply to issues caused by misuse, unauthorised modification, the Customer's systems or infrastructure, third-party systems not supplied by the Service Provider, connectivity issues, or matters outside the Service Provider's reasonable control.
- 14.9. As part of the Software Monthly Subscription, the Customer is entitled to three (3) hours of Smart Service Support per calendar month. Additional support is chargeable at the Service Provider's standard rates unless otherwise agreed.
- 14.10. Any support or troubleshooting provided by the Service Provider for issues not caused by the Services, including issues originating in the Customer's own systems or environment, may be charged at the Service Provider's standard rates.
- 14.11. Except as expressly stated in this Agreement, the Services are provided "as is" and the Service Provider disclaims all other warranties to the maximum extent permitted by law.

### 15. Professional Services and Implementation Success Program

- 15.1. Professional Services may include process analysis, design, implementation, configuration, project management, training, testing, and integration services.
- 15.2. The scope, deliverables, timelines, milestones, and assumptions for Professional Services will be set out in the relevant Order, Project Plan, or Scope of Work.
- 15.3. Timetables, milestones, and go-live dates depend on the Customer's timely provision of information, access, approvals, decisions, testing participation, and reasonably available personnel.
- 15.4. The Service Provider is not responsible for delay, additional cost, or failure to meet a milestone to the extent caused by Customer delay, inaction, incomplete instructions, unavailable personnel, third-party dependencies, or scope changes.
- 15.5. If the Customer delays or fails to provide required inputs, the Service Provider may reasonably extend timelines, reallocate resources, suspend work, and charge resulting additional or remobilisation costs at standard rates.
- 15.6. The Service Provider may rely on information, data, templates, sample documents, instructions, and approvals provided by the Customer, and is not responsible for errors, delays, or rework arising from inaccuracies or omissions in them.
- 15.7. Professional Services are provided based on assumptions and system conditions reasonably understood at the time of quoting or planning. If those assumptions prove materially incorrect or incomplete, scope, fees, timelines, and resource allocation may be adjusted through clause 12.

- 15.8. Go-live, deployment, or production use by the Customer after implementation, testing, or training constitutes acceptance of the relevant implementation output, except for any material non-conformance properly notified under this Agreement.
- 15.9. Unless expressly stated in an Order, Professional Services do not include ongoing managed services, business process outsourcing, legal or regulatory advice, records management advice, or general IT support beyond the Services expressly described.
- 15.10. Integrations and interoperability with third-party software or systems are subject to third-party availability, permissions, limitations, and support. The Service Provider is not responsible for third-party changes or restrictions outside its reasonable control.
- 15.11. Training and knowledge transfer are limited to what is expressly included in the applicable Order, Project Plan, or Scope of Work. Additional or repeat training may be charged at standard rates.
- 15.12. The Customer remains responsible for its own internal testing, business sign-off, user readiness, and operational readiness for go-live.
- 15.13. Any implementation deliverable, milestone, configuration, workflow, training completion, test outcome, or other implementation output requiring Customer approval will be deemed accepted unless the Customer gives written notice of material non-conformance within seven (7) Business Days after delivery, completion, or request for approval.
- 15.14. The Customer may be eligible for a rebate under the Implementation Success Program, subject to the successful and timely completion of agreed milestones and the Customer's active adoption and use of the implemented solution.

### 16. Indemnities

- 16.1. The Service Provider will defend and indemnify the Customer against a third-party claim that the Services, as provided by the Service Provider, infringe that third party's copyright.
- 16.2. This indemnity applies only if the Customer:
  - a) promptly notifies the Service Provider in writing;
  - b) does not admit liability or settle without consent;
  - c) provides reasonable cooperation at its own expense; and
  - d) allows the Service Provider sole control of the defence and settlement.
- 16.3. If such a claim is made or appears likely, the Service Provider may:
  - a) procure the right for the Customer to continue using the affected Services;
  - b) modify or replace them; or
  - c) terminate the affected Services and refund prepaid fees for the remaining term.
- 16.4. The Service Provider has no indemnity liability to the extent the claim arises from unauthorised use, modification by others, continued use after notice, or combination with products or systems not supplied by the Service Provider.
- 16.5. This clause states the Service Provider's entire liability, and the Customer's exclusive remedy, for IP infringement by the Services.
- 16.6. The Customer will defend, indemnify, and hold harmless the Service Provider against claims, losses, liabilities, damages, costs, and expenses arising out of:
  - a) misuse of the Services by the Customer or an Authorised User;
  - b) breach of the Customer's obligations under clause 7; or
  - c) failure to obtain necessary rights or consents for data used with the Services.
- 16.7. The Customer's indemnity under clause 16.6 is conditional on the Service Provider:
  - a) promptly notifying the Customer of the relevant claim;
  - b) not admitting liability or settling the claim without the Customer's prior written consent; and
  - c) giving the Customer reasonable control of the defence and settlement of the claim, with the Service Provider to provide reasonable cooperation at the Customer's cost.
- 16.8. The Customer must not settle any claim in a manner that imposes liability, obligations, or admissions on the Service Provider without the Service Provider's prior written consent.

### 17. Limitation of Liability

- 17.1. To the fullest extent permitted by law, each party's total aggregate liability arising out of or in connection with this Agreement is capped at the total fees paid or payable by the Customer under the relevant Order in the twelve (12) months before the event giving rise to the claim.
- 17.2. Neither party is liable for indirect, incidental, special, consequential, punitive, or exemplary loss or damage, or for loss of profit, revenue, business opportunity, goodwill, or data.
- 17.3. Any claim by the Customer against the Service Provider must be brought within one (1) year after the cause of action arose.
- 17.4. Nothing in this Agreement excludes or limits liability for death or personal injury caused by negligence, fraud, fraudulent misrepresentation, or any liability that cannot lawfully be excluded or limited.
- 17.5. Nothing in this Agreement excludes any non-excludable rights the Customer may have under the Australian Consumer Law.
- 17.6. No Order, proposal, statement of work, project plan, presentation, email, or similar document expands or overrides the Service Provider's warranties, indemnities, liability limits, Vendor Terms pass-throughs, or service commitments unless it expressly amends this Agreement and is signed in accordance with clause 18.2.

### 18. Force Majeure, Confidentiality (NDA) and General

- 18.1. Neither party is liable for delay or failure to perform, other than payment obligations, to the extent caused by events beyond its reasonable control.
- 18.2. Any amendment or waiver of this Agreement or an Order must be in writing and signed by both parties.
- 18.3. Each party must keep the other's Confidential Information confidential and use it only for the purposes of this Agreement.
- 18.4. Confidential Information does not include information that is public through no breach, already lawfully known, independently developed, or lawfully received from a third party without restriction.
- 18.5. The confidentiality obligations survive for five (5) years after termination, and indefinitely for trade secrets and Customer Data that are Confidential Information.
- 18.6. The parties are independent contractors and nothing in this Agreement creates a partnership, joint venture, agency, fiduciary, or employment relationship.
- 18.7. The Customer may not assign this Agreement without the Service Provider's prior written consent. The Service Provider may assign it to an affiliate or in connection with a merger, acquisition, restructure, or sale of relevant assets.
- 18.8. This Agreement, together with all Orders and documents expressly incorporated into it, constitutes the entire agreement between the parties.
- 18.9. If there is any inconsistency between contractual documents, the order of precedence is:
  - a) this Agreement;
  - b) the applicable Order;

- c) any Statement of Work, Project Plan, Proposal, or other document expressly incorporated into the Order; and
- d) the applicable Vendor Terms, but only to the extent described in clause 11.2.

18.10. This Agreement is governed by the laws of Queensland, Australia, and the parties submit to the non-exclusive jurisdiction of its courts.

18.11. Any provision which by its nature is intended to survive termination or expiry survives, including clauses relating to payment, confidentiality, indemnities, limitation of liability, data retention and deletion, intellectual property, dispute resolution, and continuing Vendor Terms.

18.12. Before commencing court proceedings in relation to any dispute arising out of or in connection with this Agreement, a party must give written notice of the dispute to the other party, and the parties must use reasonable endeavours to resolve the dispute by good-faith negotiation.

18.13. If the dispute is not resolved within ten (10) Business Days after notice is given, either party may refer the dispute to mediation in Queensland, Australia, conducted by a mediator agreed between the parties or, failing agreement within five (5) Business Days, appointed by the President of the Queensland Law Society.

18.14. Nothing in this clause prevents a party from seeking urgent injunctive or interlocutory relief.

## 19. Marketing and Communications Consent

19.1. The Customer consents to the Service Provider identifying the Customer as a client for marketing and promotional purposes, provided that such reference is limited to use of the Customer's name and a general description of the project or Services provided.

19.2. Any use of the Customer's logo, branding, or detailed case study information requires the Customer's prior written approval.

19.3. This clause survives termination of this Agreement unless the Customer revokes that consent in writing.

## 20. Signatures

20.1. The Customer has caused this Agreement to be executed by its duly authorised representative.

20.2. This Agreement may be executed electronically.

Customer: \_\_\_\_\_

On Behalf of Customer:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_