

OUR CUSTOMER TERMS

INCIDENT RESPONSE RETAINER SECTION

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Certain words are used with the specific meanings set out below and in [the General Terms of Our Customer Terms](#) at <http://www.telstra.com.au/customer-terms/business-government/index.htm>.

1 ABOUT THIS SECTION

- 1.1 This is the Incident Response Retainer section of Our Customer Terms.
- 1.2 The General Terms of Our Customer Terms also apply to your Services. See section one of the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm> for more detail on how the various sections of Our Customer Terms are to be read together.

2 WHAT IS THE TELSTRA INCIDENT RESPONSE RETAINER SERVICE?

- 2.1 You obtain the Telstra Incident Response Retainer service by buying a "Retainer" from us. You can buy multiple Retainers.
- 2.2 The Essentials tier gives you 40 hours of time from our cyber response team in relation to a single incident during the term you select on your application form (**Term**).
- 2.3 The Advanced tier gives you 100 hours of time from our cyber response team in relation to any incident during the term you select on your application form.
- 2.4 The Premium tier gives you 150 hours of time from our cyber response team in relation to any incident during the term you select on your application form.
- 2.5 You can use your Retainer to respond to one or more cybersecurity incidents (depending on the tier that you have purchased) that you first became aware of (or should have been aware of) after the date you sign up to this service. You do this by asking us to investigate, contain or help you recover from the incident. For any incident you were aware of (or should have been aware of) before the date you sign up to this service, we are not obliged to respond to that cybersecurity incident, but if we do agree to respond to that incident, an additional fee will be payable which we will confirm to you at the time. If you decide to accept that fee and have us respond to that cybersecurity incident, you and we will amend the fees accordingly.
- 2.6 The Telstra Incident Response Retainer service can include, as determined by us, the following:
 - (a) investigation and support;
 - (b) malware, device and log analysis;
 - (c) remediation planning and assistance;
 - (d) status reporting and project management related activities – summarises activities completed, issues requiring attention, and plans for the next reporting period. Status reports also contain key statistics and information such as scanning progress, indicators of compromise identified, compromised systems and timeline of attacker activity;
 - (e) deployment support and execution of investigative tools; and
 - (f) reporting and presentations with findings and recommendations – the results of any

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investigative or analysis activities performed. This typically includes an executive summary as well as descriptions of the attack vector, summary of the attack, extent of compromise, data exposure, remediation recommendations, malware analysis, analysis and related exhibits. As the Incident Response provider, we will determine which ones are applicable and to what extent, depending on the nature of incident.

- 2.7 We may consider your feedback on any report or other output we provide to you as part of the Incident Response service, but we're not obliged to amend that report or output.

3 HOW DOES YOUR INCIDENT RESPONSE SERVICE WORK?

- 3.1 When you notify us of a cybersecurity incident, via the 24x7 Telstra Incident Response Hotline, this triggers triage of the incident via a phone call. We may change the phone number for the Telstra Incident Response Hotline from time to time and will provide prior notice to you before this phone number changes.
- 3.2 We aim to call you within 1 hour (during Business Hours) of you telling us of the incident.
- 3.3 At triage, if we both agree that the incident is to be covered by your Retainer, then you are deemed to have made an 'Activation Request' and we will initiate the Telstra Incident Response Retainer service and aim to respond to you within the timeframe specified in the Telstra Incident Response Retainer services table (Initial Remote Response). If at any time after we have started work in response to an Activation Request, you decide not to proceed any further, you are deemed to have:
- (a) used up your Retainer, if you are an Essentials Tier customer; or
 - (b) used up the number of hours we spend responding to that Activation Request, if you are an Advanced or Premium customer.

4 YOUR OBLIGATIONS

- 4.1 You acknowledge that a failure or delay by you or your Personnel to do any of the following may cause a failure or delay by us in providing the Telstra Incident Response Retainer service (and that we will not be liable for any such failure or delays):
- (a) ensure your sites and relevant Facilities (including all necessary third-party Facilities and consents) are complete, ready for, and compatible with the Telstra Incident Response Retainer service;
 - (b) give our Personnel full, prompt and safe access to your sites, Personnel, Facilities, data (including logs and events) and any other required resources we request from time to time (including a suitable work area for our Personnel where they are required to attend your sites);
 - (c) promptly complete tasks we assign to you and promptly and accurately comply with our reasonable directions, instructions and requests (including by reviewing any reports we give you and giving us feedback);
 - (d) cooperate fully with our Personnel and assist them as we reasonably require from time to time;

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- (e) promptly tell us of any delays that could impact us performing our obligations under this section of Our Customer Terms;
- (f) appoint an appropriately qualified resource with authority to manage and promptly resolve all issues we raise. This person will be the primary point of contact for us and you must give us their full contact details (including mobile phone number, voicemail and email);
- (g) give us accurate information about the processes, systems, applications and network structures that reflect the status or conditions currently in effect and/or future requirements;
- (h) facilitate the deployment of any on-premise or cloud-based tools required for data gathering;
- (i) restore your IT assets as we request, including by installing software updates and restoring data back-ups. You can ask us to assist you with this and if we agree to do so, you must pay us at our then current time and material rates; and
- (j) deliver any materials (including hard drives) to our cyber response team, at an address we nominate.

4.2 You must at all times at your own cost:

- (a) have full authorisation and written approval (including from relevant third parties) for our Personnel to perform their obligations under this section of Our Customer Terms, including by obtaining prior written approval for our Personnel to monitor, scan, or access any of your IT infrastructure (including systems hosted, managed, owned, or under the control of a third party). This includes obtaining approvals from any party that supplies you with web hosting, IT support, cloud computing facilities, firewall management, or other services, to the extent needed for us to perform our obligations under this section of Our Customer Terms;
- (b) not breach any laws, standards or codes or do (or fail to do) anything will cause us to breach any laws, standards or codes;
- (c) not infringe the Intellectual Property Rights or other rights of any person (including by ensuring that any materials or Facilities provided to us do not breach any person's rights); and
- (d) not do any act or make any omission that may expose us to the risk of any claim or legal, administrative or other action.

4.3 You indemnify us and our Personnel against any loss or damage we incur or suffer, or any failure or delay in providing the Services, in connection with your breach of this clause 4.2.

4.4 Your Telstra Incident Response Retainer service improves when you also ask us to prepare an incident response plan. This plan is available at additional cost, which we can confirm on request. While this plan is optional, without it, your Telstra Incident Response Retainer service may be impacted or may not be as effective.

4.5 All products delivered or to be delivered in connection with the Telstra Incident Response

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Retainer service remain our property until we receive payment in full. All risk of loss or damage to those products pass to you on delivery to your premises or specified place of acceptance.

5 OUR OBLIGATIONS

5.1 We will:

- (a) provide the Telstra Incident Response Retainer service with due care and skill, but don't guarantee it will be continuous or fault free or produce a specified outcome;
- (b) ensure the Telstra Incident Response Retainer service is provided by competent and suitably qualified Personnel;
- (c) ensure that our Personnel who attend your site will comply with your reasonable, standard occupational health and safety and physical security requirements notified to us in advance, which are applicable to the site;
- (d) on request, update you on how many hours remain in your Telstra Incident Response Retainer service;
- (e) upload the log files we access to an appropriately secured cloud-based threat analytics platform for analysis. You grant us and our Personnel a perpetual, royalty free, irrevocable, worldwide, non-exclusive license to use, reproduce, modify, create derivative works from, publish, distribute, sub-license, transmit, and provide access to these logs, but only to improve the Telstra Incident Response Retainer service or to enhance our other products and services, and, for Government customers, only if any identifiers that could associate the logs with you in any way are first deidentified or otherwise anonymised;
- (f) give you regular updates on the number hours used in your Telstra Incident Response Retainer service;
- (g) seek your approval if we need to proceed beyond the total included hours of your Telstra Incident Response Retainer service; and
- (h) prepare minutes of the daily update calls we have with you and you must review these minutes and let us know if there are any errors or omissions. If you don't do this within 1 business day of us providing you with the minutes, you are deemed to have accepted those minutes.

5.2 The following clause applies to Government customers:

- (a) In addition to our obligations under clause 5.1, we will ensure, prior to involving any of our Personnel in carrying out the Services, we undertake all necessary background checks (as set out the in the Incident Response Retainer-Government-Application Form) of those Personnel to ensure that they are fit and proper to provide the Services.

5.3 You acknowledge that unless we expressly authorise in writing, our Personnel don't have authority to enter into, or make any binding contract, arrangement or understanding with you or any other person on any matter.

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6 TERM AND TERMINATION

- 6.1 The term of your service starts on the date you sign your application form and ends at the end of the applicable period in your chosen term.
- 6.2 You may terminate your Essentials Tier Retainer within the first three months by notifying us in writing. If, during this period:
- (a) you use any portion of the available 40 hours, you are not entitled to a refund; or
 - (b) you don't use any portion of the available 40 hours:
 - (i) and you have prepaid the full value of the fees payable under your application form, you are entitled to a refund equal to fees for 50% of the total value as at the date of termination; or
 - (ii) and you have not prepaid the full value of the fees payable under your application form, the remaining fees to be paid by you on termination will be reduced so that you are only required to pay 50% of the total value owing as at the date of termination.
- 6.3 You may terminate your Premium or Advanced Tier Retainer, by giving us at least 20 Business Days written notice. If you exercise this right:
- (a) and you have prepaid the full value of the fees payable under your application form, you are entitled to a refund equal to fees for 50% of the unused hours under your retainer as at the date of termination; or
 - (b) and you have not prepaid the full value of the fees payable under your application form, the remaining fees to be paid by you on termination will be reduced so that you are only required to pay fees for 50% of the unused hours under your retainer as at the date of termination.
- 6.4 A party may terminate a Retainer by written notice to the other party if that other party:
- (a) breaches any term of this section of Our Customer Terms as it relates to that Retainer and fails to fix the breach within 14 days of being asked to do so; or
 - (b) has an administrator, receiver, liquidator or provisional liquidator appointed to it, or it fails to resolve to enter into any settlement, moratorium or similar arrangement for the benefit of its creditors, or it is unable to pay its debts when they are due.

7 PRIVACY

- 7.1 You agree to us and our Personnel having full access to all communications, information, findings, recommendations, reports and deliverables created in the course of us providing the Telstra Incident Response Retainer service.
- 7.2 You must not, without our prior written consent:
- (a) make any public or media announcements relating to us or the subject matter of your application form; or

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- (b) disclose to any party that we are providing you with the Telstra Incident Response Retainer service or are otherwise assisting you with your security requirements.

8 INTELLECTUAL PROPERTY

- 8.1 You agree that as between you and us, we retain ownership of all rights, including Intellectual Property Rights in the Telstra Incident Response Retainer service and any materials created by us or on our behalf for, during, after, or in connection with, the Telstra Incident Response Retainer service (including any deliverables and other relevant documentation) (“Our Material”).
- 8.2 To the extent that you (or any of your Personnel) acquire any right, title or interest (including any Intellectual Property Rights), in Our Material, you irrevocably and unconditionally assign (and must procure that any of your Personnel irrevocably and unconditionally assign) that right, title and interest to us.
- 8.3 You agree to promptly do all things necessary to give effect to the assignment in clause 8.2.
- 8.4 Where any person makes a claim for Intellectual Property Right infringement in connection with Our Material, we may modify, limit, suspend or cancel the Telstra Incident Response Retainer service, if required, in response to the claim by giving you as much prior notice as we reasonably can.
- 8.5 We grant you a non-exclusive, non-transferable licence to Our Material for the sole purpose of you receiving the benefit of the Telstra Incident Response Retainer service for your internal business purposes.
- 8.6 You grant us and our Personnel a non-exclusive, royalty free licence to use any of your Facilities during the term of the agreement, for the sole purpose of performing our obligations under this section. Additionally, you grant us and our Personnel a perpetual, non-exclusive, royalty free licence to use any materials provided to us, for the sole purpose of performing our obligations under this section. This licence includes the right to copy, modify, adapt or merge as we see fit.

9 VULNERABILITIES IN COMMERCIAL OFF THE SHELF PRODUCTS

- 9.1 If we find vulnerabilities in any underlying commercial off the shelf software or hardware products when we provide the Telstra Incident Response Retainer service to you, we aim to do the following:
 - (a) develop a vulnerability report describing the identified vulnerability, to send to the vendor of the relevant product, without identifying you; and
 - (b) publicly release the vulnerability report when the vendor releases a “fix” or “workaround” to the identified vulnerability, without identifying you.
- 9.2 If the vendor doesn’t release a fix or workaround within 3 months of us sending them the vulnerability report, we may ask for your consent to publicly release the report (and you mustn’t unreasonably refuse).
- 9.3 Despite anything else in this clause 9, we won’t release the vulnerability report if we think it’s not appropriate to do so (for example, to mitigate the risk of the vulnerability).

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10 WHAT EXCLUSIONS APPLY TO YOUR TELSTRA INCIDENT RESPONSE RETAINER SERVICE?

- 10.1 We use due care and skill in performing the Telstra Incident Response Retainer service, but we don't guarantee it will be free from errors or that it will be provided by specific dates or times.
- 10.2 We don't warrant that the Telstra Incident Response Retainer service (or any recommendations made) will produce particular results or outcomes (including achieving any external certification, accreditation or industry standards).
- 10.3 You agree that you're best placed to review recommendations made as they will or may impact you, and any related risks arising from implementing any recommendation. You must assess the information and any recommendations we provide. Before implementing them, you must satisfy yourself as to their appropriateness for your needs.
- 10.4 The Telstra Incident Response Retainer service may result in or cause interruptions, loss or damage to you and your computer systems, networks, websites, Internet connections, data and to the extent relevant, Facilities. You agree that to the full extent the law allows, we have no liability to you or any party whatsoever as a result of this.
- 10.5 We aren't liable for any loss or damage suffered by you or any party as a result of us accessing or seeking to access any systems, data or Facilities within the scope of the Telstra Incident Response Retainer service.
- 10.6 The nature of the Telstra Incident Response Retainer service means we may actively attempt to breach security controls to access your systems and data and that such attempts could otherwise amount to unlawful activity. You consent to us doing this. If your Personnel report our activities to any external body (including law enforcement agencies), you must immediately confirm to that external body that we were acting in an authorised manner.
- 10.7 We take reasonable measures to ensure problems don't occur or that information is not accidentally disclosed. However, as security testing is inherently risky and may take place over open public networks, we aren't responsible for losses due to network variables (such as server crashes), or accidental disclosure of information over public networks. You must ensure a total backup of your network occurs before any operation or testing is attempted.
- 10.8 Our performance of the Telstra Incident Response Retainer service is limited to assessing the current state of your environment and related controls. We make no representations or warranties of any kind about the future security of your services, operations, products, Facilities, or forward-looking statements.
- 10.9 You agree that the potential effectiveness of specific controls over your environment are subject to inherent limitations. This means errors or fraud may occur and aren't detected. If we make any recommendations or conclusions as part of the Telstra Incident Response Retainer service, you acknowledge that they're subject to any changes to your environment or controls, or that the failure to change your environment or control may alter the validity of those recommendations or conclusions.

11 WHAT LIMITATIONS OF LIABILITY APPLY?

- 11.1 You must not bring any action in against us or our Personnel in connection with the Telstra Incident Response Retainer service or this section of Our Customer Terms, more than two

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years after the cause of action first arose.

12 WHAT ARE THE APPLICABLE FEES FOR YOUR TELSTRA INCIDENT RESPONSE RETAINER SERVICE?

- 12.1 You must pay all invoices we issue in connection with the Telstra Incident Response Retainer service within 30 days of the date of the invoice.
- 12.2 You must pay us the applicable fees set out in your application form, including the applicable fees:
- (a) once you've used up (or are deemed to have used up) your Retainer; or
 - (b) if you need to use the Telstra Incident Response Retainer service outside of Business Hours.
- 12.3 The standard fees for your Telstra Incident Response Retainer service exclude the following:
- (a) travel and accommodation;
 - (b) deployment of on-site equipment;
 - (c) any court related work (including court appearances, "chain of custody" work, or writing reports and findings for submission in court);
 - (d) any out-of-pocket expenses; and
 - (e) any other work, service, item or deliverable not specifically described in clause 2.4.
- 12.4 We'll ask for your prior approval for the items described in clause 12.3, which will be charged at our then current time and material rates. You must not unreasonably withhold that approval.
- 12.5 This clause applies if you sign up to or recontract your Incident Response Retainer service on or after 21 February 2024 and the service has a minimum term of 12 months or longer:
- (a) The prices for the service will remain fixed during the first 12 months from the commencement of the minimum term (**Start Date**).
 - (b) At any time after the first 12 months, we may, by giving you reasonable advance notice, increase the prices for the service by a percentage amount no greater than CPI (rounded to the nearest dollar), provided that we only exercise this price increase right no more than once in any 12-month period.
 - (c) In this clause, **CPI** means the percentage annual change in the Consumer Price Index All Groups weighted average for the 8 capital cities as published by the Australian Bureau of Statistics (**ABS**) immediately before the date of our price increase notice.

13 SPECIAL MEANINGS

- 13.1 The following words have the following special meanings:

Business Hours means 9am to 5pm (AEST) on Mondays to Fridays, excluding public

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holidays.

Facilities means equipment, data, network, hardware, software, materials, information, facilities, workspaces, products, services, accessories, documentation and resources.

Personnel A person's officers, employees, agents, contractors and sub-contractors and in our case includes our Related Bodies Corporate.

Related Bodies Corporate has the meaning given under the Corporations Act 2001 (Cth).

Retainer has the meaning given in clause 2.1.