

# OUR CUSTOMER TERMS CLOUD SERVICES – DEPUTY

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# OUR CUSTOMER TERMS

## CLOUD SERVICES – DEPUTY

Certain words are used with the specific meanings set out below or in the [General Terms section of Our Customer Terms](#).

### 1 ABOUT THE DEPUTY SECTION

- 1.1 This is the Deputy Service section of Our Customer Terms. Depending on the nature of the products and services you are receiving under this Cloud Services section, provisions in other parts of the Cloud Services section, as well as in the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm>, may apply.
- 1.2 See section one of the General Terms of the Cloud Services section for more detail on how the various parts of the Cloud Services section are to be read together.
- 1.3 Unless you have entered into a separate agreement with us which excludes them, the General Terms section of Our Customer Terms also applies. 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 DEPUTY SERVICE

#### What is Deputy?

- 2.1 Deputy is a job rostering and workforce management cloud application ("**Deputy Service**").

#### Eligibility

- 2.2 To be able to use the Deputy Service, you must have an internet connection and use a compatible browser and/or compatible device. We can provide you with details of compatible browsers and devices on request.
- 2.3 Applicable terms and charges for your internet connection and compatible browser and/or device are separate from, and in addition to, the terms and charges for your Deputy Service.
- 2.4 Deputy is available through the Telstra Apps Marketplace. To use the Telstra Apps Marketplace, you need:
  - (a) an internet connection;
  - (b) to create an account in the Telstra Apps Marketplace (if you haven't already done so) and agree to the terms and conditions; and
  - (c) to meet any minimum system requirements required to use the Telstra Apps Marketplace.
- 2.5 The Telstra Apps Marketplace part of the Cloud Services section of Our Customer Terms (available at

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<https://www.telstra.com.au/customerterms/business-government/cloud-services>) governs your use of the Telstra Apps Marketplace.

### Telstra Customers

- 2.6 The Deputy Service is not available to Telstra Wholesale customers or for resale.
- 2.7 You must not provide or assist with the provision of the Deputy Service to any other person.
- 2.8 You must ensure that only your Authorised Users use the Deputy Service.

### 3 APPLICATION FEATURES

- 3.1 The Deputy Service is available as 'Deputy Premium', 'Deputy Flexible Weekly', 'Enterprise Prepaid' and 'Enterprise Flexi'.

#### Deputy Premium and Deputy Flexible Weekly

- 3.2 The features of 'Deputy Premium' and 'Deputy Flexible Weekly' are set out in the table below.

| Application Features         | Deputy Premium | Deputy Flexible Weekly |
|------------------------------|----------------|------------------------|
| Scheduling                   | ✓              | ✓                      |
| Make Announcements           | ✓              | ✓                      |
| Assign Tasks                 | ✓              | ✓                      |
| Mobile Apps                  | ✓              | ✓                      |
| Secure Data                  | ✓              | ✓                      |
| Unlimited Support            | ✓              | ✓                      |
| Print Rosters                | ✓              | ✓                      |
| Rosters via Email            | ✓              | ✓                      |
| Rosters via SMS              | ✓              | ✓                      |
| Time & Attendance            | ✓              | ✓                      |
| Payroll Integration          | ✓              | ✓                      |
| Deputy Kiosk for iPad        | ✓              | ✓                      |
| \$0 for Terminated Employees | ✓              | ✓                      |
| \$0 for Inactive Employees   | X              | ✓                      |

#### 30 Day Free Trial

- 3.3 If you choose the 'Deputy Premium' or 'Deputy Flexible Weekly' option, your Deputy Service comes with a 30 Day Free Trial ("**Trial**"). Towards the end of

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the Trial, you will be prompted to subscribe to your Deputy Service (either Deputy Premium or Deputy Flexible Weekly).

- 3.4 At the end of the Trial, if you choose not to subscribe to a Deputy Service, your service with us will end. Our third party vendor may permit you to continue to use a downgraded version of the Deputy Service, but if you choose to use that downgraded version, it will be on terms agreed between you and the third party vendor and you will have no relationship with us in relation to your ongoing use of that service.

### Deputy Enterprise

- 3.5 Deputy Enterprise is available in 'Enterprise Prepaid' and 'Enterprise Flexi' plans. Both plans have the same features, but the prepaid plan is paid three-monthly in advance, while the flexi plan is paid month to month.

- 3.6 Deputy Enterprise Prepaid includes following prepaid employee plan options;

| Plan Type  | Number of employees included |
|--|------------------------------|
| <b>Deputy Enterprise Prepaid 1,000 user plan</b> | Up to 1,000 Employees        |
| <b>Deputy Enterprise Prepaid 2,000 user plan</b> | Up to 2,000 Employees        |
| <b>Deputy Enterprise Prepaid 3,000 user plan</b> | Up to 3,000 Employees        |
| <b>Deputy Enterprise Prepaid 4,000 user plan</b> | Up to 4,000 Employees        |
| <b>Deputy Enterprise Prepaid 5,000 user plan</b> | Up to 5,000 Employees        |

- 3.7 The features of the Deputy Enterprise plans are set out in the table below.

| Application Features | Deputy Enterprise Prepaid   | Deputy Enterprise Flexi                |
|----------------------|---|--|
| Employees            | 1,000 Employee plan<br>2,000 Employee Plan<br>3,000 Employee Plan<br>4,000 Employee Plan<br>5,000 Employee Plan | No employees restriction – pay per use |
| Scheduling           | ✓   | ✓                                      |
| Make Announcements   | ✓   | ✓                                      |
| Assign Tasks         | ✓   | ✓                                      |
| Mobile Apps          | ✓   | ✓                                      |
| Free Updates         | ✓   | ✓                                      |
| Secure Data          | ✓   | ✓                                      |
| Unlimited Support    | ✓   | ✓                                      |
| Print Rosters        | ✓   | ✓                                      |
| Rosters via Email    | ✓   | ✓                                      |

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|                              |   |   |
|------------------------------|---|---|
| Rosters via SMS              | ✓ | ✓ |
| Time & Attendance            | ✓ | ✓ |
| Payroll Integration          | ✓ | ✓ |
| Deputy Kiosk for iPad        | ✓ | ✓ |
| \$0 for Terminated Employees | ✓ | ✓ |

Additional charges apply to any additional employee beyond the prepaid plan limits.

### Additional Services

- 3.8 In addition to the Deputy Service, if requested by you and accepted by us, we may also provide Additional Services to you. Additional Services are provided at additional cost and on separate terms from this section of Our Customer Terms.

## 4 CHARGES

### Deputy Premium and Flexible Weekly Plans

- 4.1 The Deputy Premium or Flexible Weekly plans may be purchased on a casual basis as set out in the Telstra Apps Marketplace.

- 4.2 Pricing for Deputy Premium and Flexible Weekly plans

| Plan                   | Price (incl. GST)                   |
|------------------------|-------------------------------------|
| Deputy Premium         | \$4.40 per employee per month       |
| Deputy Flexible Weekly | \$2.20 per active employee per week |

### Telstra Apps Marketplace.

- 4.3 On the first of each month, we will charge you for your Deputy Premium or Flexible Weekly plan for the previous month in arrears.
- 4.4 We calculate usage for Deputy Premium plan based on the highest number of registered employees in a calendar month
- 4.5 We calculate usage for Deputy Flexible Weekly on a weekly basis, but charge monthly. In each month, we will only charge you for entire weeks (that is, weeks whose days up to an including Sunday all fall within that month). The charges for any week that has partially finished during any month will accrue to the following month's account.
- 4.6 Your Deputy Service will continue on a month to month basis. The minimum term for the Deputy Service is one month.

### Deputy Enterprise

- 4.7 The Deputy Enterprise plans may be purchased through the Telstra Apps Marketplace.

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- 4.8 The pricing for the Deputy Enterprise plans is available through the Telstra Apps Marketplace by contacting us.
- 4.9 For the Enterprise Prepaid plan, you will be charged quarterly in advance (pre-paid) with any additional usage charges calculated at the end of each month and included on your bill in the following quarter (or following the end of your Deputy Service if it has been cancelled).
- 4.10 Your Enterprise Prepaid plan will continue on a quarterly basis. The minimum term for the Deputy Enterprise plan is three months.
- 4.11 For the Enterprise Flexi plan, on the first of the month we will charge you for the previous month in arrears. We calculate usage on a weekly basis, but charge monthly. In each month, we will only charge you for entire weeks (that is, weeks whose days up to an including Sunday all fall within that month). The charges for any week that has partially finished during any month will accrue to the following month's account.

### **Inactive employees**

- 4.12 Unless otherwise stated, we will charge you for inactive employees as set out in the Telstra App Marketplace.

### **SMS Charges and SMS Usage**

- 4.13 The charge for each SMS message sent using Deputy Premium, Deputy Flexible Weekly and Deputy Enterprise Flexi is \$0.055 (incl. GST), usage is subject to clause 4.16.
- 4.14 SMS messaging is included in the Deputy Enterprise Prepaid plans and is subject to clause 4.15.
- 4.15 SMS usage:
- (a) Without limiting 'Our Customer Terms, Cloud Service – General Terms' clause 2.10, SMS provided with the Deputy Service must:
    - (i) be sent only to recipients who are your employees, contractors or associates;
    - (ii) not exceed the number of email addresses registered under your Deputy Service;
    - (iii) not exceed 10% of the cost of your Deputy Service monthly total monthly licence fee; and
    - (iv) not be used to send as unsolicited communications to third parties.
  - (b) Should the use of the SMS Services contravene clause 4.15(a) or this Agreement we may:
    - (i) Give you notice requesting specified activities to stop;
    - (ii) Immediately limit or suspend your use of the SMS Service;
    - (iii) Cancel your Deputy Service in accordance with clause 5.5;

- (iv) Charge you an optional fee for use of the SMS Service.

### **Additional Services**

- 4.16 We will notify you of the relevant fees at the time you order any Additional Services, because they will vary depending on the nature of the Additional Services you select.

### **No early termination charges**

- 4.17 You may cancel your Deputy Service at any time through the Telstra Apps Marketplace.
- 4.18 There are no Early Termination Charges for the Deputy Premium, Flexible Weekly, Enterprise Prepaid or Enterprise Flexi plans. However, any prepaid amounts will not be refunded, and any outstanding charges will be applied to your next bill cycle (even if this is after the end of your Deputy Service).

## **5 CHANGING AND CANCELLING YOUR SERVICE**

- 5.1 You may upgrade or downgrade your Deputy Service at any time through the Telstra Apps Marketplace.
- 5.2 If you change your Deputy Service in any month, we will promptly activate your new plan, and your Fees for that month will be calculated based on the plan that is active on the last Sunday of the month. That is, if you change plans late in the month, for billing purposes we will treat you as if your Deputy Service had been on the same plan throughout the whole month.

### **We may cancel or suspend your subscription**

- 5.3 Any rights for us to suspend or terminate your subscription or service are in addition to our rights to suspend or terminate your subscription or service under the Cloud Services – General Terms and General Terms sections of Our Customer Terms.

### **Cancellation without cause**

- 5.4 We may cancel your subscription at any time and without cause by providing you with no less than 30 days written notice of cancellation. We will give you a pro rata refund of any prepaid amounts if we exercise this cancellation right. However, you will still have to pay all usage charges up to and including the date your Deputy Service ends.

### **Cancellation with cause**

- 5.5 Without limiting section 5.4, we may, by written notice to you, terminate your subscription with immediate effect if:
- (a) you fail to comply with any written notice issued by us requiring you to remedy a breach, non-observance or non-performance of your obligations under this Deputy Service section of Our Customer Terms within 5 business days of receiving that notice from us;

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- (b) you commit a breach of this Deputy Service section of Our Customer Terms which is incapable of remedy;
- (c) you go into liquidation, are wound up, become insolvent or have a receiver appointed over all or any substantial part of your assets; or
- (d) you propose or enter into any schemes of arrangements with your creditors.

### Consequences of cancellation

5.6 Upon termination of your subscription taking effect:

- (a) you must immediately:
  - (i) cease using and ensure that each of your Authorised Users ceases using the Deputy Service;
  - (ii) pay to us all Fees, expenses or other sums payable to us under this Deputy Service section of Our Customer Terms that have accrued or are payable as at the date of termination;
  - (iii) return to us any Documentation in your possession or control; and
  - (iv) provide us with written confirmation that you have completed your obligations under this section 5.6(a).
- (b) we will return to you all Customer Data stored on the Deputy Infrastructure in such format as we determines in our sole discretion; and
- (c) we will cease to have any obligations under this Deputy Service section of Our Customer Terms with respect to the provision of the Deputy Service or any Additional Services and may disconnect your access to the Deputy Service and disable all Authentication Credentials. For the avoidance of doubt, and except in the case of cancellation for convenience by us, following termination of your subscription taking effect, we will be entitled to retain any Fees paid by you, even if such amounts were paid in advance.

## 6 SUPPORT

### Level 1 Support

6.1 We will provide you with Level 1 support in relation to pricing, billing, provisioning via the Telstra Apps Marketplace, device configuration or network issues).

### Level 2 Support

6.2 Either we or our third party service provider will provide you with Level 2 support for the following:



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- (a) all support enquiries above Level 1; and
  - (b) technical support where there is an error, failure or reduction in efficiency of a feature or capability of the Deputy Service, but that does not significantly or detrimentally affect the your work environment or the general usability of Deputy.
- 6.3 Level 2 support will respond to requests within 24 hours, (public holidays excluded), provide status updates every 4 hours and resolve the issue within 3 business days of the initial request.

### **Level 3 support**

- 6.4 Either we or our third party service provider will provide you with Level 3 support in the event of business critical issues (i.e. issues that may have a severe impact on your business or operations).
- 6.5 Level 3 support will be available 24 hours per day to respond to business critical issues and resolve those issues within 4 hours.

### **Support procedures**

- 6.6 To access support, you and your Authorised Users can use the online support facility we provide or contact our helpdesk(so long as support is included in your Deputy Service).
- 6.7 To be able to receive the online technical support, you and your Authorised Users must comply with all support procedures or directions that we or Deputy notify you of from time to time.
- 6.8 We will provide contact details for our helpdesk on request.

## **7 PRIVACY AND PERSONAL INFORMATION**

- 7.1 Except as required by law, you have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Personal Information you provide to us using the Deputy Service.
- 7.2 To the extent we are required to process Personal Information in connection with the Deputy Service, and in addition to the matters set out in our Privacy Policy:
- (a) you acknowledge that the Personal Information may be disclosed or stored outside Australia or the country where your Authorised Users are located;
  - (b) you consent to us and our third party service provider, Deputy, to receive, share and disclose Personal Information arising from use of the Deputy Service with telecommunications or other third party service providers used in conjunction with the Deputy Service;
  - (c) you confirm you are entitled to disclose the relevant Personal Information to us and our third party service provider so that we

may lawfully use, process and disclose the Personal Information to supply the Deputy Service;

- (d) you must ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and disclosure by us and our third party service provider as required under the Privacy Act; and
- (e) you must comply with your obligations under our Privacy Policy, the Privacy Act and any other applicable law in relation to the Personal Information disclosed to us in connection with your use of the Deputy Service.

## 8 YOUR RESPONSIBILITIES

### Provision of Authentication Credentials

- 8.1 On your request, we will provide you with Authentication Credentials in order for your Authorised Users to access and use the Deputy Service.

### Special Requirements for Authentication Credentials in use by Customer Infrastructure

- 8.2 If you implement an Authentication Credential in a system or Third Party Application with the result that such a system is an Authorised User ("**Authorised System**"), you will implement the Authorised System such that any person accessing the Deputy Service via the Authorised System can be accurately identified to us upon our request, and the date, time and nature of such person's access to the Deputy Service via the Authorised System can likewise be accurately identified to us.

### Your obligations in relation to the Authentication Credentials

- 8.3 You must:
- (a) ensure that each Authentication Credential is securely maintained and used only by the Authorised User to whom the Authentication Credential has been issued;
  - (b) comply with any policies, guidelines or other requirements that we may issue from time to time in any way relating to Authentication Credentials;
  - (c) immediately notify us and take immediate steps to disable an issued Authentication Credential if:
    - (i) an Authorised User ceases to be employed by, contracted to, or otherwise authorised to use the Deputy Service by you;
    - (ii) an Authentication Credential is lost, stolen, missing or is otherwise compromised; or
    - (iii) you become aware of any breach of the provisions of this section of Our Customer Terms by the Authorised User, in

which case the Authentication Credentials will be suspended until such time as the breach is remedied to our satisfaction;

- (d) not transfer or allow to be transferred Authentication Credentials between or amongst Authorised Users or other individuals or systems and take all reasonable steps to ensure that Authentication Credentials are not transferred;
- (e) conduct regular checks to ensure the integrity of all issued Authentication Credentials, including regularly cross checking your list of Authorised Users with such list we maintain and provide to you; and
- (f) periodically reset Authentication Credentials as and to the extent required by us from time to time.

### **Management of Authentication Credentials**

- 8.4 We reserve the right at any time and from time to time to change and/or revoke Authentication Credentials by providing you with written notice.

### **General responsibilities**

- 8.5 You will be responsible for:
- (a) uploading all Customer Data into the Deputy Service;
  - (b) the day to day use of the Deputy Service;
  - (c) obtaining all consents, permits or approvals necessary to upload the Customer Data into the Deputy Service, store the Customer Data on the Deputy Infrastructure and otherwise use the Deputy Service;
  - (d) ensuring that the use of the Deputy Service by you and each of your Authorised Users and the uploading and storage of the Customer Data complies with all applicable laws, regulations or codes of conduct;
  - (e) satisfying yourself that the Deputy Service is compatible with your own hardware, software and internet and network capabilities and maintaining all hardware, software, Third Party Applications and other technology necessary to be able to access and use the Deputy Service;
  - (f) ensuring that you maintain back up or alternate systems for use if the Deputy Service is unavailable or is otherwise unable to be used by you;
  - (g) ensuring no Unacceptable Content is uploaded to the Deputy Service or stored in the Deputy Infrastructure; and
  - (h) any acts or omissions committed by your Authorised Users or your other employees, officers, contractors or representatives or any of your related parties in relation to the Deputy Service.

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### 8.6 You must:

- (a) use the Deputy Service only for your internal business purposes;
- (b) only use and copy the Documentation to the extent necessary to use the Deputy Service;
- (c) comply with our Acceptable Usage Policy or any other policies regarding the use of the Deputy Service that we notify you of from time to time (which notification may be provided by us or Deputy making the relevant policies accessible via the Deputy Website, our website or Customer Installation);
- (d) ensure that each Authorised User is an employee or contractor of yours who has all licences, certifications, permissions or other approvals required to be able to access and use the Deputy Service;
- (e) not use the Deputy Service in any way or for any purpose other than as contemplated by this Deputy Service section of Our Customer Terms;
- (f) not permit any person other than the Authorised Users to use the Deputy Service and ensure that those Authorised Users, in using the Deputy Service, comply with the terms and conditions of this Deputy Service section of Our Customer Terms as if they were you;
- (g) not modify, adapt, translate, reverse engineer, de-compile, disassemble or copy all or any part of the Deputy Service;
- (h) not attempt to circumvent or break any encryption, decryption or other security device or technological protection measure contained in the Deputy Service;
- (i) not distribute any part of the Deputy Service for commercial purposes or otherwise sub-licence or resell the Deputy Service;
- (j) not create derivative works from all or any part of the Deputy Service;
- (k) not transfer, assign, rent, lease, lend, sell or otherwise dispose of all or any part of the Deputy Service or any compilation derived from the Deputy Service; and
- (l) not make any part of the Deputy Service publicly available.

### **No obligations to provide other services**

- 8.7 We are not required to develop, release or install any updates, upgrades, patches, bug fixes, new releases or new versions in respect of the Deputy Service ("**Updates**"). However, if we do develop or release any Updates, we may require that you use and install all such Updates.

### **Documentation**

## OUR CUSTOMER TERMS CLOUD SERVICES – DEPUTY

- 8.8 You must use only the most recent version of the Documentation provided by us, and must follow our instructions concerning the return or destruction of any superseded versions of the Documentation.

### **Access to your system**

- 8.9 You acknowledge and agree that during the Term we and our third party service providers may access (including by remote access) your Customer Installation and your computer systems used to access the Customer Installation, including to provide support services to you and to monitor your use of the Deputy Service. You must do all things reasonably requested by us to ensure we have such access during the Term.

### **UNACCEPTABLE CONTENT**

#### **Unacceptable Content - We can notify you**

- 8.10 If we reasonably believe that any Unacceptable Content has been uploaded into the Deputy Service or is being stored on the Deputy Infrastructure, we may request you to either remove the Unacceptable Content, or disable access to the Unacceptable Content.

#### **We can take action**

- 8.11 We will have the right (but not the obligation) to remove Unacceptable Content from the Deputy Service or Deputy Infrastructure or disable access to Unacceptable Content where you have not complied with a request made by us under section 8.10 within 5 days of the date of the request.

#### **No obligation to monitor**

- 8.12 We are not required to monitor the Deputy Service for Unacceptable Content or otherwise monitor or screen Customer Data for Unacceptable Content.

## **9 ADDITIONAL TERMS**

### **Your subscription**

- 9.1 You acknowledge that we rely on a third party service provider in order to supply the Deputy Service to you. You must comply with the following terms, which we are required by our third party service provider to impose on you.

#### **Third party applications**

- 9.2 You acknowledge and agree that the Deputy Service may interact with Third Party Applications or require Third Party Applications or Third Party Providers to be used to provide particular features or functionality. Where such Third Party Applications or Third Party Providers are used, you acknowledge and agree that:

- (a) we make no representations or warranties relating to the Third Party Providers or the Third Party Applications (including without limitation

regarding the availability or timing of any availability of any interface with the Deputy Service);

- (b) any Third Party Providers and us are not partners, joint venturers, representatives or agents of each other;
- (c) the inclusion of any link to or integration with any Third Party Application does not constitute or imply any affiliation with, or sponsorship, endorsement or approval by us of the Third Party Provider or Third Party Application;
- (d) you agree to and must abide by, and must ensure that each Authorised User agrees to and abides by, any obligations imposed upon you by such Third Party Provider;
- (e) access to Third Party Applications is at your risk and we will in no way be responsible for any Loss that may result from your use of any Third Party Application, despite the fact that any such Third Party Application may interface with the Deputy Service, or that we may have provided installation or integration services with respect to the Third Party Application;
- (f) the Third Party Providers may have practices, terms and policies, including those relating to privacy or data security, that are different from ours. We are not responsible for these practices, terms and policies and specifically disclaims any liability for any of them;
- (g) we are not responsible for and have no obligation to provide you with any assistance or support in relation to the functioning or operation of the Third Party Applications.

### **INTELLECTUAL PROPERTY**

#### **Our Intellectual Property**

- 9.3 You do not receive any ownership of or rights in respect of the Intellectual Property in the Deputy Service or any Documentation, any Intellectual Property in any materials created as a result of the performance of the Deputy Service or any Improvements to the Deputy Service. Any Intellectual Property in respect of the Deputy Service or Documentation that is created by or vests in you during the Term is assigned to us or our third party service provider immediately upon the Intellectual Property being created or vesting in you and you agree to do all things and execute all documents as is reasonably necessary to effect such assignment.

#### **Intellectual Property Licence**

- 9.4 We grant you a limited, non exclusive and revocable licence to use the Intellectual Property in the Deputy Service and Documentation solely to the extent such use is necessary for you to receive the Deputy Service. Unless revoked earlier by us, the licence granted under this section 9.4 terminates immediately upon the termination of your subscription.

#### **Your Intellectual Property**

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- 9.5 As between you and us, you retain ownership of your Intellectual Property in respect of the Customer Data. You grants us and our third party service provider, a non-exclusive, irrevocable licence to reproduce and otherwise exploit Customer Data for the purposes of providing the Deputy Service (including any Additional Services) to you or for any purposes which we consider are ancillary to our provision of the Deputy Services or Additional Services or are otherwise necessary for the proper operation of the Deputy Service.

### Trade marks

- 9.6 Subject to sections 9.3 and 9.4, nothing in your Agreement with us:
- (a) grants you any ownership of or rights to use our trade marks or Deputy's trade marks; and
  - (b) grants us or our third party provider, Deputy, any ownership of or rights to use your trade marks.
- 9.7 You must not adopt, register or attempt to register or use any trade marks which are identical or deceptively similar to our trade marks or those of our third party service provider.

### SECURITY OF DEPUTY APPLICATION

#### Our obligations

- 9.8 We will take reasonable steps to ensure the security and safety of the Customer Data and other information stored on the Deputy Infrastructure, including by implementing and maintaining reasonable and current data protection and virus screening procedures and technologies.

#### Our liability

- 9.9 However, we will not be liable for any Loss suffered by you that arises out of or in connection with:
- (a) any computer viruses being transferred by or obtained as a result of the use of the Deputy Service;
  - (b) any hacking into or other similar attacks on the Deputy Service or the Deputy Infrastructure; or
  - (c) any other data security issues in respect of the Deputy Service or the Deputy Infrastructure.

#### Back ups

- 9.10 We do not provide back up or other similar services in respect of the Customer Data and you are responsible for implementing your own back up and data retrieval procedures in respect of the Customer Data.

### WARRANTIES

#### Warranties excluded



- 9.11 To the extent permitted by law, we do not warrant or guarantee that:
- (a) the Deputy Service will be compatible with, or capable of being used on or in connection with, your computer and communications systems;
  - (b) your access to the Deputy Service will be uninterrupted or error free; or
  - (c) the Deputy Service will be accurate, reliable or fit for any particular purpose.

### **LIMITATION OF LIABILITY**

#### **Liability capped**

- 9.12 Our liability for any Loss, however caused (including by our negligence or the negligence of our third party service provider, Deputy), suffered by you in connection with your access to or use of (including inability to use) the Deputy Service is limited as set out in the General Terms of Our Customer Terms (or in your separate agreement with us), but if you have acquired the Free Subscription and have not paid any fees, then \$100).

The limitation set out in this section 9.12 is an aggregate limit for all claims or Loss, whenever made.

### **INDEMNITY**

- 9.13 You must indemnify and keep us and our third party provider, Deputy, indemnified against any Loss which arises directly or indirectly out of:
- (a) any Unacceptable Content being uploaded into the Deputy Service or stored on the Deputy Infrastructure;
  - (b) the uploading of the Customer Data into the Deputy Service, storage of any Customer Data on the Deputy Infrastructure or use of the Deputy Service by you or your Authorised Users which does not comply with privacy or other laws of any applicable jurisdiction;
  - (c) the Customer Data being stored or displayed on the Deputy Service; or
  - (d) any negligent or unlawful acts by you, your Authorised Users, employees, officers, contractors or representative, or any of your related parties or their respective Authorised Users, employees, officers, contractors or representatives;

except to the extent the relevant Loss arises as a direct result of any breach of your Agreement by us or any negligent or unlawful act by us or any of our personnel.

## **10 DEFINITIONS AND INTERPRETATION**

- 10.1 In this Deputy Service section of Our Customer Terms, unless the context otherwise requires:



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**Additional Services** means any service which we agree to provide to you during the Term in addition to the Deputy Service, including the provision of consulting, customisation, implementation, training, integration or other services.

**Agreement** means the relevant sections of Our Customer Terms and application form, or your separate agreement with us, applicable to your Deputy Subscription.

**Authentication Credential** means the username and password or other means of authentication which Authorised Users are required to provide in order to be able to access the Deputy Service.

**Authorised Users** means the employees, agents, contractors or other representatives of yours or your subsidiaries or other related parties who are issued with an Authentication Credential in accordance with this section of Our Customer Terms.

**Consequential Loss** means Loss beyond the normal measure of damages and includes indirect Loss, Loss of revenue, Loss of reputation, Loss of profits, Loss of actual or anticipated savings, Loss of bargain, lost opportunities, including opportunities to enter into arrangements with third parties, Loss of use, cost of capital or costs of substitute goods, facilities or services.

**Customer Data** means all information or communications (whether relating to you or your Authorised Users or otherwise) uploaded to the Deputy Service by you, on your behalf, or by your Authorised Users.

**Customer Installation** means the installation of the Deputy Service made available to you through the Telstra Apps Marketplace from time to time

**Deputy** means Deputec Pty Ltd ACN 133 632 327 of 177 Botany Road, Waterloo, New South Wales, Australia.

**Deputy Service** means a Free Subscription, Flexible Weekly, Premium, Enterprise Flexi or Enterprise Prepaid versions (as applicable) of the employee scheduling, time and attendance, task management, business procedure management, payroll integration, workplace social media services and other online software applications that we make available to you and your Authorised Users from time to time and includes (where applicable) the Customer Installation.

**Deputy Infrastructure** means the computer servers or other hardware used by Deputy in connection with its provision of the Deputy Service.

**Deputy Website** means the website located at [www.deputy.com](http://www.deputy.com) or the website located at such other URL that we notify you of from time to time.

**Documentation** means any manuals, guides, reference materials or other similar documents in any form that we make available to you in connection with the Deputy Service.

# OUR CUSTOMER TERMS

## CLOUD SERVICES – DEPUTY

**Fees** means any fees or other amounts payable by you to us under this Deputy Service section of Our Customer Terms, including any fees for the provision of Additional Services.

**Free Subscription** means access to the version of the Deputy Service that we make available to customers at no charge from time to time.

**Improvement** means any modification, alteration, development, new use or other change to the Deputy Service that makes it more accurate, more useful, more functional, more efficient, more cost effective or in any other way preferable.

**Inactive Employees** means those employees who are not working for you and for whom you do not need to pay, including an employee:

- (a) for whom a shift has not been published;
- (b) for whom a timesheet has not been submitted for the employee; or

who has not performed management functions such as rostering, managing timesheets, exporting payroll information, managing tasks, creating journal entries or reviewing reports.

**Intellectual Property** includes all patents, designs, copyright, trade marks or circuit layout rights and any right to apply for the registration or grant of any of the above.

**Loss** means any loss, liability, cost, claim, expense, damage, charge, penalty, outgoing or payment however arising, whether present, unascertained, immediate, future or contingent and whether direct loss or Consequential Loss.

**Paid Subscription** means access to the versions of the Deputy Service that we make available to customers in return for the payment of the Fees from time to time.

**Payment Facility** means any credit card, bank card, bank account or other payment facility, details for which are provided by you to us in connection with the payment of the Fees.

**Personal Information** has the meaning set out in section 6(1) of the Privacy Act.

**Privacy Act** means the *Privacy Act 1988* (Cth).

**Rate Sheet** means the rate sheet accessible by you via the Telstra Apps Marketplace, the Customer Installation or otherwise provided to you, in any case, as amended by us or Deputy from time to time.

**Support Hours** means the hours in which Deputy will provide you any applicable support services, as published on the Deputy Website or the Customer Installation and updated by Deputy from time to time.

**Term** means the period of time during which your Deputy subscription is active.

## OUR CUSTOMER TERMS CLOUD SERVICES – DEPUTY

**Terminated Employees** means those employees who have been terminated or discarded from employment. They are not charged in any plan. Discarded staff cannot be rostered or have any interaction in the Deputy Service although their history is retained and they can be reinstated at any time.

**Third Party Application** means any product, service, system, application or internet site integrated or interfaced with the Deputy Service that is owned or operated by a Third Party Provider, and that is used by you or any Authorised User in connection with the Deputy Service.

**Third Party Provider** means any third party that provides support, technology and/or other products or services that are used by you or any Authorised User in connection with the Deputy Service.

**Unacceptable Content** means any content which, in our reasonably held opinion, is obscene, offensive, upsetting, defamatory, illegal or inappropriate, infringes or appears to infringe the intellectual property rights of any person or contravenes or appears to contravene any applicable laws, regulations or codes of conduct.