

# **VIRTUAL DATACENTRE**

## **CUSTOMER SERVICE & RELATIONSHIP AGREEMENT**

Document Updated: 4<sup>th</sup> September, 2017

## TABLE OF CONTENTS

<b>1. DEFINITIONS AND INTERPRETATIONS</b>	
a) Introduction .....	3
b) Eligibility .....	3
c) Definitions .....	4
<b>2. YOUR APPLICATION FOR SERVICE</b>	
<b>3. SUPPLY OF SERVICE(S)</b> .....	7
a) Connecting the Service and/or Product .....	7
b) The use of Services and/or Products .....	7
c) Your Responsibilities .....	7
d) Course of Action .....	7
<b>4. EQUIPMENT</b>	
a) Our Equipment .....	8
b) Your Equipment .....	8
<b>5. QUALITY AND MAINTENANCE</b> .....	9
<b>6. CUSTOMER OBLIGATIONS</b> .....	10
<b>7. PAYMENT TERMS</b>	
a) Payment Charges .....	11
b) Credit Card Payments .....	11
c) GST .....	12
d) Late and Dishonoured Payments .....	12
e) Payment and Invoice Disputes .....	14
f) Payment Terms .....	14

<b>8. SUSPENSION AND TERMINATION</b> .....	15
<b>9. CANCELLATION TERMS</b> .....	16
<b>10. YOUR SERVICE</b> .....	17
<b>11. YOUR INFORMATION</b>	
a) Your Liabilities .....	18
b) Our Liabilities .....	18
c) Relationships .....	18
d) Verification Checks .....	18
<b>12. GENERAL</b>	
a) Communication & Notifications .....	19
b) Agreement .....	19

## 1) DEFINITIONS AND INTERPRETATIONS

### a) INTRODUCTION

This is a customer and service relationship agreement that will set out the terms and conditions that will be agreed to between both parties who will enter into this agreement.

- i) Virtual Datacentre “us” and/or “we”
- ii) You “the Customer” and/or “the client”

This customer and service relationship agreement will apply to all orders to provision products and services to the Customer, whether the product and service is to be under a Service Order, a Service Schedule or otherwise.

Virtual Datacentre reserves the rights to modify and/or change this customer and service relationship agreement at any time during the term of the agreement, whereby the current version will be available to access and download from our company website at [www.virtual-dc.com.au](http://www.virtual-dc.com.au) at all times.

Virtual Datacentre are suppliers of cloud hosting and data centre products and services.

Customers may wish to purchase products and/or services from Virtual Datacentre and can do this directly through our company website.

Virtual Datacentre can be contacted through appropriate channels that will be outlined in this document. This document will also detail how you are to contact the appropriate department.

### b) ELIGIBILITY

To be eligible for any product and service with Virtual Datacentre, you must meet all relevant eligibility requirements that are outlined in this document and any other documents that are to be agreed to as outlined throughout this document.

If your order fails to meet the eligibility criteria outlined in this document, we may consult with you in relation to any queries that may require changes to your application or to your product and/or service.

## **DEFINITIONS**

### **“WE” / “OUR” / “US”**

- This refers to the business Virtual Datacentre (ABN: 65 109 918 747).

### **“YOU” / “YOUR” / “CUSTOMER” / “CUSTOMERS” / “END USER”**

- This refers to the person, persons or entity who has ordered a product and service with us.

### **“PARTIES”**

- This refers to both you (the customer) and us (Virtual Datacentre).

### **“SERVICE” / “SERVICES”**

- This will refer to the service that Virtual Datacentre will supply to the customer under this customer service and relationship agreement.

### **“PRODUCT”**

- This will refer to a product that Virtual Datacentre will supply to the customer under this customer service and relationship agreement.

### **“SCHEDULE”**

- This means the scheduled agreement between both parties “Virtual Datacentre” and the “Customer”.

### **“AUTHORISED PERSONNEL”**

- This means the person who is the contact of the service and product and who will be the authorised person who is to deal with representatives of Virtual Datacentre.

### **“AUTHORISED REPRESENTATIVE”**

- This means a person who is employed by and represents Virtual Datacentre.

### **“BUSINESS DAY” AND “BUSINESS HOURS”**

- This means each day from Monday through to Friday is a Business Day and will exclude any public holidays that occur in the state of Queensland. Business Days is from 8AM to 6PM.

### **“COMMENCEMENT DATE”**

- This means the date that the service and/or product will commence.

### **“PRICE”**

- This means the price for the service and/or product that Virtual Datacentre will deliver and/or provide to the Customer.

### **“CUSTOMER CONTRACT”**

- This means the contract agreement that will be between “Virtual Datacentre” and the “Customer”. The “Customer Contract” is an additional agreement between both parties and will also include the agreement of this “Customer Service and Relationship Agreement” policy.

### **“FIXED TERM SERVICE”**

- This means a fixed minimum amount per month for a fixed contract term (e.g. a number of months that is agreed to deliver the service and/or product) that is outlined in the agreement.

### **“FIXED TERM CHARGE”**

- This means a service and/or product that is charged at a fixed rate for the period of the agreed term for which the service and/or product is to be delivered to the customer.

**“GST”**

- This is the “*Goods and Services Tax*” that is inclusive of all prices that are advertised on the Virtual Datacentre and/or is to be provided in any quotes.

**“TELECOMMUNICATIONS ACT”**

- This means the Law of Telecommunication Services that is Governed by the Commonwealth Government of Australia.

**“CORPORATION ACT”**

- This means the Law for Companies and Businesses Entities which is Governed by the Commonwealth Government of Australia.

**“OUR EQUIPMENT”**

- This means equipment that is purchased and owned by Virtual Datacentre.

**“YOUR EQUIPMENT”**

- This means equipment that is purchased and owned by you (the Customer).

**“CUSTOMER INSTALLATION”**

- This means equipment that has been purchased and is owned by you (the Customer) and is installed by you (the Customer) into racks and/or cabinets in data centres that Virtual Datacentre occupy.

**“DISASTER”**

- This means an unplanned interruption to a service and/or product that is delivered to the Customer, deeming the service to be inaccessible.

**“EQUIPMENT CONFIGURATION”**

- This means the customers equipment that is to be configured from time to time. The equipment may be configured by the Customer or Virtual Datacentre.

**“CUSTOMER PORTAL”**

- This means the online web portal where Customers and Virtual Datacentre will communicate through a tickets, complete all online billing and all information that is stored and relates to a Customer and the Customers service and/or products.

**“NETWORK”**

- This means Internet network connectivity that is delivered and/or supplied to the Customer.

**“VIRTUAL SERVER”**

- This means a server that has been virtualised on Infrastructure that is owned and managed by Virtual Datacentre.

**“DEDICATED SERVER”**

- This means a physical server that is owned by Virtual Datacentre and is leased to the Customer.

**“COLOCATION”**

- This means equipment that is owned by the Customer and is located inside Data Centres that are occupied by Virtual Datacentre.

**“HOSTING”**

- This means a service (Web, Email, DNS, Data and Backup) that is delivered by Virtual Datacentre.

## 2) YOUR APPLICATION FOR SERVICE

- a) You may make an application for us to supply you with a service and/or product by
  - a. Completing and submitting an online application form that is located on our company website;
- OR**
- b. Completing any Contract and/or Agreement paperwork that we have provided to you and returning it VIA snail mail;
- OR**
- c. Scanning the completed Contract and/or Agreement into a PDF document and then attaching this document to a ticket that is to be submitted to our Provisioning Team through our customer Web Portal.
- b) Your service and/or product may be automatically provisioned by our system however, this application for a service and/or product cannot be accepted until our Management and/or Provisioning team have reviewed the application.
- c) Management and/or Provisioning will accept the order without notification within no more than 48 hours of receiving it during business days.
- d) Your application will be subjected to acceptance once
  - a. The order is reviewed by either one of/or Management or Provisioning teams;
  - b. The information submitted in the application is found to be correct;
  - c. The information detailed in the application is found to have met our eligibility criteria;
  - d. The accuracy of the information that has been provided in the application form;
  - e. Whether there is the technical limitation of our ability to be able to provide you with the service;
  - f. And any prior history with us where we have supplied you with any services and/or products.
- e) Your application may be subjected to being denied once
  - a. We have completed all eligibility checks and found that you are not eligible to hold a service with us;
  - b. Checks with any third parties and that we have found information that consist of reports that deem us not to be able to provide a service to you;
  - c. We have found information within your application that is incorrect or inconsistent with any other information that we may have;
  - d. That we have concluded that the service is not suitable for you and/or your application and/or your intentions to you're the service and/or product.
- f) Management and/or Provisioning will reserve the rights to suspend or terminate a service if we have found the customer to be ineligible for the service and/or product.
- g) Management and/or Provisioning will reserve the right to request for any form of legal identification (that is Government issued) to ensure we are delivering the service to the applicant.
- h) You warrant that the information that you are supplying to us in your application is true and correct and that you acknowledge that we will rely on the information that you are supplying to us in your application.

### 3) SUPPLY OF SERVICE(S)

#### a) **CONNECTING THE SERVICE AND/OR PRODUCT**

- a. Our system will attempt to automatically provision your new service and/or product for you should the service and/or product be deemed as a service that can be automatically provisioned by our system for you.
- b. Services and/or products that are not deemed to be automatically provisioned by our system will be completed manually during business days and hours.
- c. Services and/or products that require manual installation (e.g. Dedicated Servers, Colocation services, Installations of cross connects and other services) will be completed during business days and hours. The provisioning timeframe will be discussed with the customer once the application has been completed.
- d. The registration of domain name addresses will be done during business days and hours.
- e. You must be able to be reasonable and co-operate with us to allow us to deliver and connect services to you safely and efficiently.

#### b) **THE USE OF SERVICE AND/OR PRODUCTS**

- a. On our network and/or infrastructure is being agreed to be used that will comply with all local, state and federal laws.
- b. Must not be used where you will commit an offence or where you will be infringing on another person's rights.

- c. Cannot in anyway impact the way that we are able to deliver services to customers across our network and/or infrastructure.

- d. Cannot be used to transmit, publish or communicate any form of material that is defamatory and/or offensive, indecent, abusive, threatening, harassing, menacing and/or unsolicited.

#### c) **YOUR RESPONSIBILITIES**

- a. You are the person who will be responsible for all payments and/or charges for each service and/or product.
- b. You agree that should you wish to cancel the service and/or product, you will do so but submitting the online cancellation request form through our customer Web Portal.
- c. You will ensure that your billing and contact information that is stored and available to be changed in our customer Web Portal are always keep up to date with the correct information.
- d. You will ensure that the service is being used in accordance to this Customer Service and Relationship Agreement at all times.

#### d) **COURSE OF ACTION**

- a. We reserve the right to suspend a service and/or product if it is found to be in breach of this section of the Customer Service and Relationship Agreement.
- b. We will inform you of any breaches and should we find that the breach falls under clause 12.A.C. of this document, we reserve the right to terminate the service and/or product.



## 4) EQUIPMENT

### a) OUR EQUIPMENT

- a. In order for us to provide a service and/or product to you, the equipment that we provide is to be provided to you on our behalf.
- b. Where we provide you with our equipment, we maintain full ownership of that equipment at all times.
- c. All procedures must be followed in accordance with the manufactures specification guidelines that is to be obtained from the manufactures website.
- d. At any time, we reserve the right to inspect, test, service, repair, modify remove and/or replace any part of our equipment when a fault is reported.
- e. To complete any fault repairs, we may take the service and/or product offline during the maintenance period that is required for us to repair the equipment.
- f. You must ensure that the equipment we have supplied to you is not altered from the specifications that are outlined during the time of provisioning the service and/or product.
- g. You must comply with our instructions when relating to the rights and/or ownership of our equipment.
- h. You hold the responsibilities for any cause that is found to have damaged our equipment and must pay cost plus time for repairs.
- i. You cannot on-sell our equipment to others at any time.

### b) YOUR EQUIPMENT

- a. The customer must at all times comply with local, state and federal laws.
- b. Must comply with all technical standards in guidance with the Regulatory Authority (the Australian Communications and Media Authority, the Australian Competition and Consumer Commission (ACCC), the Telecommunications Industry Ombudsman (TIO), and any other Government body or authority.
- c. Must accept direction that is provided by us to avoid any danger or interference that is caused to our infrastructure.
- d. Can be accessed at any of our data centres that we occupy given that we have received a minimum of 24 hours' notice by having a ticket opened with our Technical Support team through our customer Web Portal.
- e. Cannot be removed without our permission and can only be removed with a minimum of 24 hours' notice by having a ticket opened with our Technical Support team through our customer Web Portal.
- f. May be disconnected if it is found to be in breach of this Customer Service and Relationship Agreement.
- g. May be held by us and is to be released by us once all outstanding invoices and/or debts are paid in full.
- h. If all invoices and/or debts are unpaid after 90 days, we reserve the right to sell your equipment to recover all cost owing to us.

## 5) QUALITY AND MAINTENANCE

a) Our aim is to always deliver but never guarantee a fault-free service and/or product.

b) We may from time to time carry out maintenance work on our network and/or our infrastructure.

Should we carry out and maintenance work, a Service Notification will be issued with a minimum of 24 hours' notice.

c) We may from time to time carry out emergency maintenance work on our network and/or our infrastructure.

Should we carry out any emergency works, this will be completed with high priority and any Service Notifications about any emergency work that we have completed will be issued within 24 hours after all emergency works have been completed.

d) Data centres that we occupy may conduct on-site work from time to time. Should we be notified of any disruptions to our services, we will send out a Service Notification regarding any disruptions caused to our network and/or infrastructure.

e) Should a fault be reported to us, you agree that you have taken all reasonable to ensure that the fault is not a fault of yours and/or your equipment and that the fault lies only with inside our network and/or infrastructure.

f) You agree that we are not to be held responsible for any faults that are within your service and/or product.

g) Should we be required to resolve any faults that are within your service and/or product, a smart hands fee will be purchased and paid in full before any work is completed by us.

h) If we find that your service has caused any form of disruption to our network and/or to our infrastructure, we reserve the rights to charge you for repairing the fault and if it is caused by something that you have done or by something that someone who uses your service has done be it intentionally, recklessly and/or negligently.

i) For your equipment, you will be responsible for the full functioning and security of your equipment at all times.

You must maintain and repair your equipment and that you ensure that it will be at all times secured.

j) You must report any known faults in relation to the service as soon as reasonable possible.

k) Any service outages are calculated based on the "Level of Service Credit" table found in our Service Level Agreement document.

l) Our Service Level Agreement is provided to those that hold a semi or fully managed service, dedicated server and/or colocation service with us.

m) Once a report has been received for a fault, we must work to rectify the fault as soon a reasonably possible.

n) For any scheduled maintenance, emergencies works that we carry out and/or unscheduled outages, you will not hold us liable for any loss of business and/or income that is loss during this time.

o) You must treat any and/or all Service Notifications that we send out by e-mail and/or SMS as private and confidential. Any Service Notifications that are disclosed to others and/or the general public can result in your service being terminated as this will be seen to be a breach of privacy.

## 6) CUSTOMER OBLIGATIONS

- a) The Customer have obligations to meet so that we are able to deliver a secure platform across our network and/or infrastructure.
- b) A Customer must follow our directions in relation to:
  - a. The use of the service and/or product that you are receiving under this Customer Service and Relationship Agreement.
  - b. The guidance that we may give at any time to ensure that this Customer Service and Relationship Agreement is met.
- c) A Customer with a self-managed service must ensure that they have applied standard secure measurements to their service and/or product.
- d) A Customer with a semi-managed service must also apply standard secure measurements to their service and/or product unless requested by a Technical Support team member to assist with.
- e) The Customer with a Content Management System (CMS) type website (e.g. WordPress and Joomla) are obligated to keep their website up to date with the latest patches and security updates released by the developers.
- f) The Customer must not run any type of application and/or script that can cause any type of disruption to our infrastructure and/or network.
- g) The Customer must ensure that their contact details are correct at all times within our customer Web Portal.
- h) The Customer must ensure that their billing details are up to date at all times within our customer Web Portal.
- i) The Customer must complete all due invoice payments on time to avoid any disruptions to their service and/or product.
- j) The Customer may distribute user and responsibilities to access our customer Web Portal to other users however they must also be made aware of and understand this Customer Service and Relationship Agreement.
- k) If the Customer uses and service and/or product in a manner that is inconsistent with this Customer Service and Relationship Agreement, the Customer will be responsible for any loss that they will suffer.
- l) The Customer understands by not meeting the Obligations outlined in this Customer Service and Relationship Agreement, their service may be disrupted by having the service suspended by us.
- m) The Customer understands that should the severity of an incident cause any financial loss to them and/or to their business that we will not be liable for that financial loss.
- n) The Customer agrees that should we be requested to resolve any issues that falls under the Customer Obligations and is outlined in this Customer Service and Relationship Agreement, they will pay for a Smart Hands fee to fix any problems.
- o) The Customer must not resell a product and/or service to another person unless the product description includes "Resell" and/or "Reseller" in it, than the Customer may resell that service and/or product to another person.
- p) The Customer acknowledges that should they wish to cancel an active service and/or product, they must submit the online cancellation form in the customer Web Portal.

## 7) PAYMENT TERMS

### a) PAYMENT CHARGES

- a. Unless otherwise specified in this Customer Service and Relationship Agreement, we will invoice the Customer in advance for all services and/or products.
- b. For existing customers, invoices will be issued 14 days before the invoice due date.
- c. All invoices will incur a Merchant Payment Gateway fee based on the rate that we are charged from our Merchant Service Provider.
- d. For new orders, invoices will be generated the same day that the order is created in our customer Web Portal and must be paid before a service and/or product is provisioned and/or delivered.
- e. Invoices that are generated 14 days before the invoice due date must be paid for in full before the invoice due date.
- f. Instalment payments can be paid during the 21 day period but the Customer must complete all payments before the invoice due date.
- g. The Customer must pay in cleared funds by direct deposit, bPay, PayPal and/or Credit Card.
- h. All payments that are made are non-refundable and may be referred to Accounts and Billing and/or Management team to discuss.
- i. Our system will automatically generate the due invoice and will only be sent to the registered email addresses that are stored in our customer Web Portal.

j. Invoices that are manually created by us will be due within 3 working days and must be paid in full within this given period.

k. A payment reminder email for a due invoice will be issued to the registered email addresses in our customer Web Portal 5 days before the invoice due date if payment has not yet been received in full.

l. Unless otherwise specified on the product description and/or within this Customer Service and Relationship Agreement, the invoice due date will be the same date that the service and/or product was provisioned.

### b) CREDIT CARD PAYMENTS

- a. Credit Card payments are our default payment method.
- b. The Customer is responsible for ensuring that we have the correct Credit Card details to debit from.
- c. The Customer will take responsibility for all payments that are debited for any due invoices relating to their account.
- d. The Customer agrees that the Credit Card details submitted into our customer Web Portal is their Credit Card and that they are the holder of that Credit Card.
- e. The Customer is to be solely responsible for having the sufficient amount required to debit from the Credit Card when there is a due invoice.
- f. The Customer must pay any dishonour fees and any other charges, expenses and/or losses resulting from any unsuccessful payment attempts.

- g. For any Charge Back request that is to be submitted to a Bank and/or Merchant provider, we must first have the opportunity to discuss the request for a refund.
- h. Any request for a refund before a Charge Back is filled must be raised with our Accounts and Billing team in our customer Web Portal within no more than 14 days from the date that the payment was made.
- i. The Customer acknowledges that they will accept our Charge Back merchant fees plus a \$25 Administration fee when we receive a Charge Back request.
- j. The Customer acknowledges that there is a \$10.00 processing fee for any refunds that are approved by management.
- k. The Customer acknowledges that the Credit Card processing merchant fee is passed on to them which will be shown on all due invoices and will be included in the total amount for the due invoice.
- l. The Customer acknowledges that we will attempt to capture a due payment with the Credit Card details on file between the invoice due date and up to 15 days before the invoice due date.
- m. An unsuccessful payment will result in an email being sent to the Customer and is to inform the Customer that the payment attempt was not successful.
- n. Payments that are made with a Credit Card will pay for the next billing period and acknowledge that this payment will be non-refundable.
- o. There will be no merchant fees and/or charges should there be a clear error on our part.

**c) GST**

- a. All prices that we have advertised throughout our websites, on customer invoices and in any quotes are in Australian Dollars (AUD) only.
- b. All prices that are advertise on our website are GST exclusive unless expressed in writing.
- c. All prices that is detailed on our invoices are GST exclusive unless expressed in the contrary in writing.
- d. The Customer agrees to pay us GST in the same manner and at the same time as the payment for the relevant service and/or product that is supplied.
- e. We will issue a TAX invoice to the Customer for the purpose of GST.
- f. If required, we will amend an invoice amount which will also automatically adjust the GST amount.

**d) LATE AND DISHONoured PAYMENTS**

- a. An outstanding invoice will be marked overdue as of the invoice due date.
- b. There are services and/or products that do not require a service cancellation period as described in clause 9.C.
- c. The customer must pay all expenses that are incurred by us as a result of an invoice not being paid.
  - a) Expenses that we may incur but not limited to – Reversed payment fees and/or charges, Debt Collection fees and/or charges, and any Legal cost and/or charges based on an indemnity basis.

- d. All late and dishonoured payment disputes must be raised with us by raising a ticket with Accounts and Billing in our customer Web Portal.
  - e. All late and dishonoured payment disputes must be paid within the 14 days that the invoice is due and/or 14 days after the payment has been completed.
  - f. If payment is not received in full before the invoice due date, we may charge 15% for the outstanding monies owed to us.
  - g. We will also suspend or terminate all services in accordance to clause 8.C.
  - h. If payment has not been completed in full after being given the appropriate notice to complete all due payments, we will then refer the outstanding debt owed to us to a third party for the purpose of commencing collections activity and legal proceedings.
  - i. The Customer will be responsible for all cost, charges and expenses that we incur in relation to the attempt to recover all debts owed to us and is to include all accounting cost, debt collection agency cost and/or legal proceedings cost.
  - j. A Late Payment Fee of \$15.00 will be applied to an invoice where a service and/or product is under contractual agreement between us and the Customer.
  - k. All Late and Dishonoured payment fees are final.
  - l. Services that have been suspended and require manual reactivation will attract a \$65.00 Administration Fee.
  - m. All invoices that are 30 days or older will incur interest at the rate of 15.00% per annum and will be calculated daily.
- e) **PAYMENT AND INVOICE DISPUTES**
- a. If the Customer disputes any part of an invoice, the Customer must:
    - a) Submit a ticket to Accounts and Billing in our customer Web Portal within 14 days of receiving the invoice.
    - b) Any payment and/or invoice that is being disputed must be paid in full before the invoice due date if no resolution has been found before the due date.
    - c) When a resolution has been finalised, the disputed amount will be credited to the Customer's account.
  - b. Any payments that are not disputed within 14 days of receiving the invoice as per clause 7.E(i) is deemed as accepted by the Customer and is final.
  - c. All parties must endeavour to resolve all payment and invoice disputes within no more than 14 days from the date that the dispute is raised with Accounts and Billing department through our customer Web Portal.
- f) **PAYMENT TERMS**
- a. We accept payment terms based on monthly, quarterly, half-annually, annually and/or biennially.
  - b. Payment terms can be altered at the request of the customer by raising a ticket with Accounts and Billing in our customer Web Portal.

## 8) SUSPENSION AND TERMINATION

- a) Services and/or Products may be suspended if the Customer is found to be in breach of this Customer Service and Relationship Agreement or other Agreements that are outlined in clause 1.A.
- b) Services and/or Products may be suspended and/or terminated if it is to be found to be in breach of this Customer Service and Relationship Agreement, clause 10.
- c) A service and/or product may be suspended on the due date when there is an overdue invoice.
- d) If a service and/or product has been suspended, a suspension notice will be issued to the customer by email and to the registered email addresses in our customer Web Portal.
- e) If a service and/or product has been suspended due to an overdue invoice, the service will not be unsuspended until payment has been paid in full.
- f) If a service and/or product has been suspended and there is an open invoice or payment dispute, the service will not be unsuspended until a resolution has been provided to the Customer.
- g) When a service and/or product is suspended, the customer is to raise a ticket in our customer Web Portal to discuss the suspension.
- h) Should a service be suspended for up to 7 days and no ticket has been raised to discuss the suspension in our customer Web Portal, we reserve the right to terminate the service and/or product without notification.
- i) A service and/or product that is suspended may attract an Administration fee of \$15.00 for the service to be unsuspended. This fee must be paid in full before the service is unsuspended.
- j) A service may be suspended within the first 2 working days of the service being provisioned if we find cause to suspend the service and/or product before we accept the application and/or order.
- k) Due to non-payment of a service, a service and/or product will be terminated between the invoice due date and the 7<sup>th</sup> day after the invoice due date.
- l) We will issue a notice of termination for a service and/or product with a minimum of 24 hours' notice before a service and/or product is terminated.
- m) If there is a request for data to be retrieved from a service and/or product that has been suspended, a Smart Hands fee will be required to be paid in full before any work is to start and data is to be provided to the Customer.
- n) When a customer is to place a cancellation request for their service and/or product, the service will be terminated at the nominated time (*"Immediately"* or *"End of the Billing Period"*).
- o) Unless a backup add-on has been provided with the service and/or product, the termination of the service and/or product is final and all data will not be able to be provided to the Customer after the service and/or product has been terminated.
- p) Once a service and/or product has been terminated, we are not liable for any loss of data and/or finances that may be lost due to termination of the service and/or product.



## 9) CANCELLATION TERMS

- a) To request a service and/or product to be cancelled, a cancellation request form must be submitted through the customer Web Portal.
- b) A request to cancel a service by Telephone, Email, SMS, FAX, Tickets or any other method will not be accepted unless it is specified to be allowed in this Customer Service and Relationship Agreement.
- c) All services and/or products will require a cancellation request form to be submitted through our customer Web Portal with 30 days notification to us.
- d) A service and/or product that is hosted on-premises will require a cancellation request form to be submitted through our customer Web Portal and with 30 days notification to us.
- e) Any cancellations that are submitted during a billing period (for services and/or products outlined in clause 9.C & 9.D) will be billed a pro-rata rate for up to 30 days from the date that the cancellation request is submitted to us.
- f) A service and/or product that is listed in clause 9.D of this Customer Service and Relationship Agreement will be billed for up to and no more than 6 months when a service and/or product is suspended for non-payment.
- g) All services and/or products will be billed indefinitely and until such time that we have been able to access the service/and or product to terminate it.
- h) Should we receive a cancellation request for a service and/or product that is listed in Clause 9.E. but cannot access the on-premises service and/or product, the Customer will continued to be billed for the service and/or product until such time that we have terminated the service and/or product.
- i) When a cancellation request is submitted to us through our customer Web Portal, you will receive shortly afterwards a confirmation email that we have received the cancellation request form.
- j) A service and/or product that is cancelled before the end of the billing period will not be refunded the pro-rata rate of the remaining billing period as the customer can select the option to use the service until the end of the billing period.
- k) Should a customer wish to remove the cancellation request that has been submitted to us can do so only by submitting a ticket to our Accounts and Billing department within our customer Web Portal. This request must be submitted for us to action during business hours and before the service and/product is to be cancelled.
- l) Once a service has been cancelled by our system, the cancellation request has been completed and is finalised.
- m) Once the cancellation request has been finalised, no data can be retrieved from the service and/or product.
- n) Should we have a copy of any data from the service and/or product that has been cancelled, a Smart Hands fee will be applied to retrieve and provide it to the Customer.

## 10) YOUR SERVICE

- a) Your service and/or product must be used in accordance to this Clause of our Customer Service and Relationship Agreement.
- b) You may not use the service and/or product for illegal activities such as
  - a. Downloading and Uploading of copyrighted material (e.g. – Multimedia and/or Torrent files);



- b. Hosting (adult and/or child) of pornographic content (audio and/or video files and still and/or animated images);
  - c. Storing content/data such as credit card and/or bank account information that is not related to your business;
  - d. Hosting of a service and/or product that is classified to be “phishing” where you will illegally obtain any person’s information (such as passwords, credit card details, website login details);
  - e. A website that will contain malware;
  - f. A website and/or service that is found to be used to violate local, state and/or federal laws.
- c) You may not use the service and/or product that we deem to be illegal on our infrastructure and/or network, such as
- a. Running an IRC (Internet Relay Chat) Server and/or service;
  - b. Any type of online proxy;
  - c. Running an online Torrent Server and/or service;
- d) For services and/or products that requires hosting for a game and/or gaming server, application, website and/or service must be hosted only on our “*Elastic Game Cloud Servers*”, “*Dedicated Servers*” and/or our “*Colocation*” service and/or product.
- e) Anything that relates to a Game Server and/or Service that is found to be outside of these products and/or services that we offer may be suspended with notification.
- f) You service will be limited to the resources that will be allocated to it and the resources allocated will be based on the description of the service and/or product that is purchased with us.
- g) For any additional resources to be allocated to the Customers service and/or product, this must be ordered through our customer Web Portal.
- While we aim to deliver an automated service, from time-to-time we may be required to manually process an upgrade to the service and/or product resources and will be done so during business days and business hours.
- h) The Customer must report to us through our customer Web Portal any faults that relate to their service and/or product that is outside of their service for us to rectify.
- i) You maintain the responsibility to ensure that your service (for a self-managed service and/or product) is secured and has the latest security patches applied to the service and/or product at all times to avoid the service and/or product being compromised.
- j) We will endeavour to make tools available for the Customer to view there service and/or product resource usage through any one of our customer Web Portals.

## 11) YOUR INFORMATION

### a) YOUR LIABILITIES

- a. As part of submitting your online order form, you agree that the information that you submit to us is 100% truthful.
- b. We may at any time request you to check and update any information that we have in our customer Web Portal.
- c. We may use the information that you have provided to us in our customer Web Portal to help us complete any online security checks and/or audits.
- d. You consent to us disclosing your information that is provided to us in our customer Web Portal to :
  - a) Our employees;
  - b) Agents and/or contractors;
  - c) Local, State and Federal Government Departments;
  - d) Any credit providers and/or agencies to obtain a credit report about you and/or your business;
  - e) Third parties that we provide instructions to act on our behalf such as Debt Collections and/or Legal Representatives
- e. You must notify us should you become aware that your account and/or information has become compromised.
- f. The Customer will agree that all information is to be kept private and confidential, including but not limited to all communications (emails, telephone conversations, SMS text messages) that we send from time to time.

### b) OUR LIABILITIES

- a. We will endeavour to the best of our ability to comply with our Privacy Policy which is available to view on our company website.
- b. At the time of completing our online order form, you consent to us requesting at any time a copy of your Government issued identification card (Passport and/or Driver's License) that allows us to verify the Customers details.
- c. You agree that if we do not receive the requested copy, that we will cancel the order and terminate the service and/or product as we are unable to verify your details.
- d. Any form of Government identification cards provided to us for verification purposes only will be stored securely.
- e. Under no circumstances will we sell your information onto third parties except under the circumstances that is outlined in clause 11.D.C. of this Customer Service and Relationship Agreement.

### c) RELATIONSHIPS

- a. This agreement will in no way create any relationship of partnership, employment, franchise, joint venture, merger and/or agency with Virtual Datacentre.
- b. This agreement ensures that Virtual Datacentre remains an independent contractor to the Customer.

d) **VERIFICATION CHECKS**

- a. We reserve the right to complete any database checks using the information that you have submitted to us to verify your details (your name, email address, telephone number and/or address).
- b. Database checks may also reveal other information such as abuse, fraud, payment chargeback, spamming, use of services illegally, hosting phishing websites, threats and other report types and may result in all services with Virtual Datacentre being cancelled and/or terminated.
- e) We reserve the right to submit any information to these databases for Service Providers to validate the history of a service that has been used with Virtual Datacentre.

**12) GENERAL**

a. **COMMUNICATION & NOTIFICATIONS**

- a) While having an active account with Virtual Datacentre, we reserve the right to send notifications and/or promotional material to a registered email address from within our customer Web Portal.
- b) Other forms of notifications and/or documents may be provided by registered mail to the registered email address that is provided to Virtual Datacentre in our customer Web Portal.
- c) Notices of breaches will be provided to the registered email address in our customer Web Portal.

- d) Customers who no longer have an active service can request to be removed from any mailing list associated with Virtual Datacentre by submitting a request to our Customer Care team through our customer Web Portal.
- e) Any request for services to be altered must have a ticket raised with the correct department through our customer Web Portal.

b. **AGREEMENT**

- a) By ordering a service with Virtual Datacentre, the customer agrees to this Customer Service & Relationship Agreement at all times and any of Agreements that are displayed on our company Legal website.
- b) We reserve the right to modify, update and change this Customer Service & Relationship Agreement at any time and can do so without notification.
- c) It will be the sole responsibility of the customer to review this Customer Service & Relationship Agreement at any time by accessing this document online through Virtual Datacentre Legal website:  
- <https://www.virtual-dc.com.au/legal>
- d) This agreement supersedes all oral and written communications by or on behalf of any of the parties in relation to this Agreement as the case may be.