



AGREEMENT: Contract Support Agreement *Take Control...* **duxtel**

This agreement takes effect from the latest of the two dates presented in the EXECUTION

THE PARTES.

This agreement defines a business relationship between:

_____, ([A.B.N]),
[full entity name]

with registered address at _____,
[full legal address]

_____, _____, _____, and nominated contact person
[city] [state] [postcode]

email address _____
[official email address]

(you, your, yours, CLIENT), and

DuxTel Pty Ltd, ACN 84 125 286 946, of address 138 Station Street, Norlane, Victoria and email address mail@duxtel.com.au (we, us, our, SERVICE PROVIDER)

RECITALS:

- A. We warrant that we have the requisite experience and skills to provide the Technical Support Services as defined in SCHEDULE B of this Agreement.
- B. We have fully informed ourselves of all aspects of the Technical Support Services required to be performed and agree to undertake these Services in accordance with the terms and conditions of this Agreement and in consideration of the fees specified in the SCHEDULE A of this Agreement.
- C. You agree to accept our offer to provide the Technical Support Services on the terms and conditions contained herein.

IT IS AGREED AS FOLLOWS:

1 Support Services

1.1 Support Services are defined as activities conducted by us on your behalf, including but not necessarily limited to:

- Research and development
- Meetings (including telephone conversations) with you or your suppliers or customers and clients and liaison with those parties
- Travel to and from various sites related to this agreement
- Report writing and other document production
- Plant and equipment installation and configuration
- Software development and/or testing

for the purposes as per schedule B below.

- 1.2 We shall perform the Support Services according to your instructions either written or verbal at the times and in the manner specified by you, to the best of our capacity.
- 1.3 At our own initiative, we may elect to perform additional activities not explicitly requested by you. In such cases, you may elect to withhold payment for these activities.
- 1.4 We shall perform the Support Services with due care, skill and judgement in accordance with the highest professional standards and to your satisfaction.

2 **Payment**

- 2.1 We will maintain a detailed and accurate log of all activities conducted by us relevant to this Agreement.
- 2.2 We will present a copy of this log of activities with any invoice for payment or at any other time by your request.
- 2.3 Subject to clauses 1.3 and 1.4, you shall pay to us the fees specified in SCHEDULE A of this Agreement on terms specified in SCHEDULE A.
- 2.4 We shall submit tax invoices for amounts payable and you undertake to pay such amounts within the terms as specified in SCHEDULE A.
- 2.5 Where this Agreement or subsequent annex provides that we are to be paid by progressive payments you shall be entitled to defer payment of a progressive payment until we have completed to the satisfaction of you that part of the Support Services to which the progressive payment relates.

3 **Confidential Information**

- 3.1 All information obtained by us from you in the course of performing the Technical Support Services shall be treated as confidential and shall not be disclosed to any third party except information which is in the public domain at the time it is provided to us or which subsequently comes into the public domain other than as a consequence of any breach by us of our obligations under this Agreement.
- 3.2 Where we are provided access to personal information and confidential information you have collected, use or disclose for particular purposes, or such information is collected, used or disclosed by us as an agent for you to be used only for particular purposes, all conduct by us in relation to the personal information, health information and confidential information will be consistent with your Privacy Policy and other policies as prescribed by you.
- 3.3 We will not disclose any confidential information to any employee, agent or sub-contractor of ours unless that person has first completed a confidentiality undertaking on terms that binds those parties to the equivalent level as this provision prior to commencing activities related to the Technical Support Services.
- 3.4 We will do all such things as may be reasonably requested by you to assist in the protection of the confidential nature of any confidential information obtained from you in the course of provision of the Technical Support Services including complying with any confidentiality policies or procedures which you may introduce



from time to time and arranging for any employee, agent or sub-contractor of ours to similarly comply with such policies

- 3.5 The obligations of confidentiality imposed by this clause shall survive the termination or other cessation of this Agreement.

4 Intellectual Property

- 4.1 Unless otherwise agreed between the parties, Intellectual Property in all material developed or produced under this Agreement shall vest in us and in consideration of you entering into this Agreement you hereby assign to us any right or interest which you might have in such material. Any Intellectual Property in such material shall also vest in us if produced by any employee, agent or sub-contractor of ours and shall be assigned accordingly.
- 4.2 We warrant that all material developed or produced under this Agreement will be original and will not infringe the intellectual property of third parties and to the best of our knowledge the material will not be defamatory or breach any
- 4.3 confidentiality or undertaking and we shall indemnify you against any loss, damage or expense which you may incur as a result of any breach of this warranty.
- 4.4 We shall deliver to you all material referred to in this clause, or material which you or any third party has provided to us for the purpose of providing the Technical Support Services, on demand or within five (5) days of the date of termination of this Agreement.
- 4.5 For the purposes of the Copyright Act 1968 (Commonwealth of Australia):
- 4.4.1 We agree to provide you with any consent necessary to ensure that in the course of providing the Technical Support Services you do not infringe my moral rights, if any, which might be created during the provision of the Technical Support Services or if such infringement occurs we consent to it;
 - 4.4.2 We will obtain a consent from any employee, agent or sub-contractor of ours employed or retained to provide the Technical Support Services to any act or omission which might otherwise constitute an infringement of any moral right which any of them may have in works that they perform for the purpose of the Technical Support Services; and
 - 4.4.3 to the extent possible we consent to any act or omission which otherwise might constitute an infringement of my moral rights in relation to the Technical Support Services.

5 Indemnity

- 5.1 We shall indemnify and keep indemnified you from and against any loss, costs, expenses, demands or liability whether direct or indirect arising out of or in any way connected to any act, neglect or default by me in the performance or purported performance or non performance of this Agreement.
- 5.2 You shall indemnify and keep indemnified us from and against any loss, costs, expenses, demands or liability whether direct or indirect arising out of or in any way connected to any act, neglect or default by you in the performance or purported performance or non performance of this Agreement.



- 5.3 The indemnities and warranties referred to in clauses 4 and this clause 5 shall survive the expiration or termination of this Agreement.

6 **Service provider Status**

- 6.1 This Agreement shall not create any agency, employer-employee relationship or a partnership of any kind whatsoever. We are an independent contractor and neither us nor our employees, suppliers or sub contractors shall be agents, employees, suppliers or sub contractors of you by virtue of this Agreement.
- 6.2 We shall not represent to any third party that we have authority to bind you to any contract or other agreement.
- 6.3 We acknowledge that we have sole responsibility in relation to the payment, if any, of superannuation, workers compensation, wages and taxes incidental to employment in respect of my own employees. We shall in relation to myself and my employees comply with and observe all obligations required by law including, but not limited to, any relevant workers compensation and occupational health and safety legislation.
- 6.4 We reserve the right to employ any suitably qualified employee or sub-contractor in provision of the Technical Support Services. We will provide a full list of persons involved in this provision within 7 days of your written request for such information.

7 **Disputes**

- 7.1 In the event of any dispute, either party may elect to terminate this Agreement, upon giving 7 days written notice to the other, notwithstanding clause 8 below.
- 7.2 If the dispute arises from clause 1.3, we may elect to terminate this Agreement and forfeit any right to payment for the disputed activities.

8 **Termination**

- 8.1 Should we fail to deliver the Technical Support Services required, or otherwise be in breach of this Agreement and you notify us of such failure to deliver or breach, you may terminate this Agreement by seven (7) days' notice in writing to us if the failure to deliver or breach is not remedied by us within 14 days of receipt of your notice.
- 8.2 Either party may terminate this Agreement without cause by giving at least 30 days notice to the other party. In such circumstances termination of this Agreement shall be effective not less than 30 days from the date of receipt of the notice by the non-terminating party, or such later date as the parties may agree.
- 8.3 In any event that this Agreement is terminated, you shall pay us for services rendered before the effective day of termination, notwithstanding clause 7.2.
- 8.4 We shall refund part of any advance payment made for Technical Support Services according to schedule A and not yet fully executed, subject to clause 8.3.
- 8.5 Neither party shall be entitled to any compensation for loss of revenue or profits as a result of termination of this agreement.



9 Notices

All notices required to be given under this Agreement shall be in writing sent to the address of the relevant party. Any notice may be delivered by post, facsimile or email.

10 General

- 10.1 This Agreement constitutes the entire agreement between the parties and may only be varied by the further written agreement of the parties.
- 10.2 This Agreement shall be governed by the laws in Australia in the State of Victoria.
- 10.3 Where a party to this Agreement consists of more than one person those persons shall be jointly and severally bound under this Agreement.
- 10.4 The recitals shall form part of this Agreement.



PO Box 164, North Geelong BC
Victoria, 3215, AUSTRALIA



0352734905



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mail@duxtel.com.au



www.duxtel.com.au

EXECUTED AS AN AGREEMENT

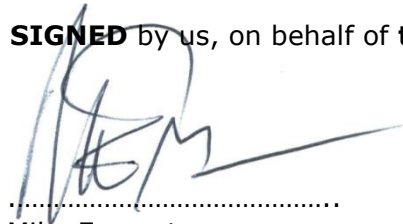
SIGNED for **you** or on your behalf

.....
[signature]

Date:.....

.....
[full name]

SIGNED by us, on behalf of **the** SERVICE PROVIDER



.....
Mike Everest

Date: **22/05/2014**



✉ PO Box 164, North Geelong BC
Victoria, 3215, AUSTRALIA

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SCHEDULE A: Fees

Our standard fees for Consulting Services is shown in the table below.

Type	Consulting Engineer			
	Per Hour	Per Day	Per Month*	Remote Mentor**
Standard Remote Rate	\$150	\$1100	\$2050	\$1150

* month rate is invoiced and paid in advance for delivery of up to 10 hours per fortnight period and during Standard Business Hours. Multiple month-rate plans are permitted

** remote mentor service offers on-call advice and assistance for up to 10 hours per 4 week period and during Standard Business Hours. Time worked beyond the included hours (including penalty additions if applicable), will be billed at the standard rate. Multiple remote mentor plans are not permitted.

Standard Business Hours are 0900 Hrs – 1730 Hrs, Monday to Friday excepting gazetted state and federal public holidays.

In the case of ad-hoc consultancy services provided at an on-call arrangement, a minimum fee of 1 hour per accounting period will apply, then applied in 15 minute increments beyond the first 1 hour unless otherwise agreed in writing.

Penalty Additions:

For penalty conditions, the following additions will apply:

Type	Penalty applied
On-site attendance	2 Hours standard rate
After Hours	2 Hours standard rate

SLA Options:

At your option, you may elect to upgrade our standard Business Hours SLA to priority response according to the following table:

Type	Response Times			Rate per Month
	Extended Business Hours	After Business Hours	Weekends/ Public Holidays	
Extended Response	2 hours	Next Business Day	Next Business Day	\$120
Priority Response	2 hours	10 hours	10 hours	\$240

Extended Business hours are 0700 Hrs – 2000 Hrs Monday to Friday excepting gazetted state and federal public holidays. Penalty rates apply per standard Business Hours definition

Materials and expenses:

Where we incur additional costs of materials or services required for us to conduct tasks and activities conducted on your behalf, we will (with your explicit permission) charge those expenses to you at cost, with evidence of the costs incurred made available on your request. Typical expenses may include travel and accommodation to allow us to complete on-site activities, or equipment and materials required to complete specific tasks. Expenses will not include costs incurred at our own discretion (such as meals and entertainment etc)

Payment Terms:

All invoices must be settled in full within 14 days of the date of issue.



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Fixed Price Option:

We may, at your request, provide a written quotation for completion of specific tasks for a set, capped amount. In this case, 60% of the project fee must be paid in advance of work proceeding and the balance due within 30 days of invoice presentation at project completion.

*Amounts stated in this schedule **do not** include GST.*



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SCHEDULE B: Project Brief

General Data Network and Wireless infrastructure development, management and maintenance projects as determined from time to time.



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TRADE ACCOUNT INFORMATION:



Take Control... **duxtel**

Business Name <i>[the applicant]</i>	
Type of Business Individual/Company/Trust	
ACN and/or ABN Registered Business No.	
Street Address	
Postal Address	
Telephone	
Fax	
Email	
Accounts Payable Contact: Email Phone	
Name of principal proprietor/ trustee or managing director: (Include details of directors of corporate trustees)	
Residential address of the principal Owner or Managing Director:	
Bank Branch/Account	

Information is for DuxTel accounts receivable information only – we do not share information with any third party without your explicit written consent.



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