

### **What is this Agreement about?**

The Contract Details, the Terms & Conditions and the Schedules set out the basis upon which AirData will provide the Services requested by You. Words that are capitalised have the meanings given to them in the Contract Details and Schedule.

### **Structure of this Agreement**

This Agreement is made up of:

- **The Contract Details:** the basic information about the contract between AirData and You including the contract number, the commencement date, the details of Your representative, details about the parties, the governing law and jurisdiction, the locations at which the Services will be provided by AirData and the term of this Agreement;
- **The Terms & Conditions:** the basic terms of the contract between AirData and Yourself ;
- **Schedule 1:** a summary of the services which You have requested AirData to provide;
- **Schedule 2:** the Equipment covered by the Services;
- **Schedule 3:** the meanings of the words used in this Agreement; and Terms and Conditions

**AirData Support**

**[support.airdata.com.au](mailto:support.airdata.com.au)**

**Schedule 1**

**S1.1 Coverage & Response**

Support Type	Coverage	Days	Response
Printer Maintenance	8.30am – 5pm	Business Days	4 hours

**Note:**

1. End-user assistance is provided by telephone 8:00-17:00, Business Days Eastern Standard Time.

**S1.2 Process**

S1.2.1 – Printer Maintenance

- Printer maintenance is scheduled as per the frequency out lined in schedule 2
- If the Customer requires an emergency call out, or to log a fault please follow the process:
  1. Log a call through the AirData Help Desk at [support.airdata.com.au](http://support.airdata.com.au) utilising existing username and password
  2. Advise AirData staff of the nature of the issue, the site and the printer serial number.

**S1.3 Services included**

S1.3.1 – Printer Maintenance

- Scheduled servicing per site listing in schedule 2
- Technicians labour and travel time
- Onsite breakdown coverage at Customer Sites as per schedule 2
- Cleaning of print head and spindles
- Check bearings for wear
- Perform label print quality test
- Discount rates for printer parts. @10% off AirData’s list price.
- Discount rates for additional emergency call outs for sites, covered in schedule 2 \$130 per hour minimum charge, 2 hours.

**S1.4 Assumptions**

S1.4.1 – Printer Maintenance

- If a service call is made at owner's request and AirData's investigation does not reveal any defect in the equipment covered in this agreement, AirData reserves the right to invoice owner for labour, material and expenses as required.
- Service will be performed during normal working hours of AirData on regular working days being Monday to Friday excluding public holidays.
- Overtime is not included and would be chargeable at current rates.
- Emergency call outs cover areas of print heads/ribbons and general basic tuning & repairs. 1 hour of on-site labour is included for each call out. If the damage is excessive and requires more than one hour on-site to rectify, AirData reserves the right to invoice the client for the additional time.
- Maintenance visits may be missed if printers cannot be made available when scheduled. All efforts will be made to accommodate the customer requirements.

**S1.5 Services Not included**

S1.5.1 – Printer Maintenance

- Cost of replacement printer heads and parts.
- Cost of freight from The Client to and from AirData.
- Out of warranty print heads (regarded as a consumable item)
- Damage which can be claimed on insurance
- Wilful damage
- Repairs exceeding 75% of the purchase price of a new printer/applicator
- Request for service that is due to operator fault, no fault found, incorrect loading of label or ribbon materials

## AirSupport(Printers)



AirData Pty Ltd ABN: 68123364296 Level 2, C2.07 22-36 Mountain St, Ultimo NSW 2007

All enquiries Phone: 1300 583 530 Email: [info@airdata.com.au](mailto:info@airdata.com.au)

- Requests for AirData to perform additional work such as conduct tests, install new attachments or additional controls, or to make replacements with parts or devices of a different design, regardless of reason, are not included under this Agreement and will be subject to additional charges for labour, material and expenses as required, at a price applicable at the time services are performed.

## AirSupport(Printers)



AirData Pty Ltd ABN: 68123364296 Level 2, C2.07 22-36 Mountain St, Ultimo NSW 2007

All enquiries Phone: 1300 583 530 Email: [info@airdata.com.au](mailto:info@airdata.com.au)

### Schedule 2 – Equipment

Site addresses, frequency of preventative maintenance and Serial Numbers of Printers to be input here by AirData once received from client. This page is supplied separately to the client.

**Schedule 3 – Meanings of Words**

In this Agreement, unless otherwise indicated by the context:

<b>Additional Services</b>	means any additional services which AirData provides for You, including those additional services specified in Schedule 1;
<b>Agreement</b>	means this agreement between AirData and You;
<b>Anniversary Date</b>	means an anniversary of the Commencement Date;
<b>Business Day</b>	means Monday through Friday excluding public holidays in the State or Territory where the Services are being performed;
<b>Commencement Date</b>	means the date on which the first Term starts;
<b>Confidential Information</b>	means information (in any form) of or about a party which is of a confidential nature including without limitation information relating to the business or affairs of that party (or its related body corporates) such as product information, pricing, strategy, industrial, marketing, sales, technical and commercial information;
<b>Coverage Hours</b>	means the coverage hours specified in Schedule 1;
<b>Equipment</b>	means the equipment specified in Schedule 2 that is located at the Sites;
<b>Fee</b>	means the fee for the Services specified in the Service Application Form;
<b>Force Majeure Event</b>	means any circumstance beyond the reasonable control of AirData, including without limitation fire, flood, inclement weather, earthquake, explosion, war, insurrection, sabotage, industrial disputes, transportation embargo, changes in law, delays or disruption by governments or government agencies and delay or disruption caused by You (or Your employees, consultants, other contractors or agents).
<b>Response</b>	means the period of time elapsing between when a Fault is logged with AirData and a AirData Technician is in contact with You.
<b>Schedule</b>	means a schedule to this Agreement as may be varied or replaced by written agreement between the parties;
<b>Sites</b>	means Customer sites specified in the Contract Details where the Equipment is located;
<b>Services</b>	means the services to be provided by AirData as specified in Schedule 1;
<b>Standard Hours</b>	means the hours between 08:30 to 17:00, Monday to Friday excluding public holidays in the State or Territory where the Services are being performed;
<b>Term</b>	means the term of this Agreement specified in the Service Application Form.

## **TERMS & CONDITIONS**

### **1. AirData' Responsibilities**

- 1.1 AirData shall provide the Services for the Equipment during the Term.
- 1.2 AirData shall provide the Services during the Coverage Hours.
- 1.3 AirData shall use its best endeavours to provide the Services within the Response times specified in Schedule 1.

### **2. Your Responsibilities**

- 2.1 You shall obtain and pay for all licences necessary for the operation of the Equipment.
- 2.2 You shall appoint a representative to be the contact person for all matters relating to this Agreement. As at the Commencement Date Your representative's details are set out in the Contract Details.
- 2.3 You will follow the documented process outlined in Schedule 1

### **3. Payment**

- 3.1 You shall pay the Fees to AirData in accordance with this clause.
- 3.2 You shall pay the Fees to AirData in advance.
- 3.3 You shall pay all additional charges payable by You for Additional Services on the terms specified in the relevant AirData invoice.
- 3.4 If You do not pay the Fees to AirData by the due date for payment, or if You default in paying any other AirData invoices, AirData may discontinue or suspend the provision of the Services without further notice being given to You. In such situation, You shall pay to AirData on demand any additional costs incurred by AirData as a result of the delay in payment. If AirData suspends the Services under this clause, You shall continue to pay AirData the Fees for the period that the Services are suspended and no credits or extensions of the Services will be provided to You by AirData.
- 3.5 If any payment due to AirData under this Agreement is fifteen or more days overdue then AirData may, in addition to all other rights to which AirData is entitled at law, charge interest on the overdue amount at the rate of 3% per annum in excess of the interest rate prescribed by the Westpac Indicator Lending Rate for Overdrafts calculated from the date of invoice to the actual date of full and final payment. Monies received by AirData may be applied by AirData against such interest prior to application against unpaid fees.
- 3.6 AirData reserves the right to increase the Fees payable by You under this Agreement if (a) You add any additional equipment to Schedule 2 as per the rate in the .

### **3A. GST**

#### **3A.1** In this clause:

"GST", "Taxable Supply" and "Tax Invoice" shall have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

- 3A.2 All amounts specified in this Agreement as being payable to AirData are exclusive of GST. If AirData makes a Taxable Supply, You shall at the same time and in the same manner that

payment for such Taxable Supply is otherwise payable by You to AirData under this Agreement, pay AirData the amount of any GST payable in respect of that Taxable Supply.

#### **4. Additional Services**

- 4.1 AirData may at its option provide Additional Services if requested by You to do so or if required to rectify anything logged by You as a Fault.
- 4.2 If AirData agrees to provide any Additional Services, AirData reserves the right to charge You an additional amount (determined in accordance with AirData's then current rates). The terms of this Agreement shall apply to the Additional Services.

#### **5. Liability**

- 5.1 To the extent permitted by law all implied conditions and warranties are excluded from this Agreement.
- 5.2 This Agreement does not seek to exclude the operation of the *Trade Practices Act 1974* or any other law of the Commonwealth, a State or Territory to the extent that the provisions of that legislation may not be excluded by express agreement.
- 5.3 To the extent that AirData's may limit its liability under this Agreement, AirData's liability under this Agreement shall be limited, at AirData's option, to the resupply of the Services or to the payment of the cost of having the Services supplied again.
- 5.4 In no event shall AirData be liable for indirect or consequential loss, loss of profit or revenue, loss of production, or loss of contract.
- 5.5 The exclusion and limitation of liability contained in this clause 5 shall apply whether the liability claim is based in contract, tort, negligence, under statute or on any other legal basis.

#### **6. Term & Termination**

- 6.1 This Agreement shall start on the Commencement Date and shall continue for the Term, unless terminated earlier in accordance with this Agreement.
- 6.2 This Agreement shall be automatically renewed for further Terms, unless either party notifies the other party at least 15 days prior to the end of the then current Term that it does not wish this Agreement to be renewed for a further Term.
- 6.3 Either party may terminate this Agreement prior to the end of the then current Term if:
- (a) the other party breaches this Agreement and fails to remedy the breach within 30 days after receiving written notice of the breach;
  - (b) the other party becomes unable to pay its debts as and when they fall due;
  - (c) the other party has an administrator, receiver, receiver and manager, liquidator, provisional liquidator or similar officer appointed over all or any of its assets;
  - (d) the other party enters into a scheme of arrangement or composition for the benefit of its creditors; or
  - (e) the other party is wound up or resolves to wind itself up, other than for the purposes of a solvent reconstruction or amalgamation.

- 6.4 AirData may terminate this Agreement in full or in part where:
- (a) In AirData's opinion, the Equipment can no longer be maintained in good working order due to work carried out on the Equipment by persons not approved by AirData. In such cases AirData will provide fourteen (14) days written notice to You;
  - (b) Parts necessary to maintain the Equipment are no longer available and/or manufactured. ; or
  - (c) Support of the software necessary to operate the Equipment is no longer available by the manufacturer.
- 6.5 Where AirData terminates this Agreement under clause 6.3 or 6.4(a), in addition to paying any unpaid Fees for the expired portion of this Agreement, You shall pay AirData on demand an "Early Termination Fee". The Early Termination Fee shall be equal to 50% of the Maintenance Fees payable for the unexpired portion of the then current Term.
- 6.6 Any provisions of this Agreement which are by nature capable of surviving termination shall do so.
- 7.0 Force Majeure**
- 7.1 If a Force Majeure Event prevents AirData from partially or wholly complying with its obligations under this Agreement, then AirData shall not be obliged to perform those obligations until it is no longer prevented from doing so and AirData shall be granted an extension of time accordingly.
- 7.2 If AirData is prevented by the Force Majeure Event from carrying out its obligations for more than 6 months, either party may terminate this Agreement with immediate effect by giving notice to the other party in accordance with this Agreement.
- 7.3 If a party terminates this Agreement, under clause 7.2 the rights and obligations of the parties will cease; the accrued rights or remedies of each Party will not be affected and You shall pay AirData:
- (a) amounts due to AirData for work carried out under this Agreement;
  - (b) the cost of materials and equipment reasonably ordered by AirData for the work under this Agreement which AirData is liable to accept; and
- 8. General**
- 8.1 Amendment - No amendment to this Agreement shall be valid or binding unless agreed in writing between AirData and You.
- 8.2 Subcontracting - AirData may subcontract totally or partially the provision of the Services.
- 8.3 Assignment - AirData may at any time assign the whole or any part of this Agreement. You may not assign this Agreement without the prior written consent of AirData, which consent shall not be unreasonably withheld.
- 8.4 Waiver - A single or partial exercise or waiver of a right under this Agreement does not prevent any other exercise of that right.
- 8.5 Severance - If at any time any provision of this Agreement is held to be illegal, invalid or unenforceable by a court of law or other competent authority, that provision shall be severed and the remaining provisions shall continue in full force and effect.



- 8.7 Entire Agreement - This Agreement contains the entire agreement between the parties in respect of the subject matter contained in it and supersedes all prior agreements, representations, warranties, promises, statements, negotiations and letters.
- 8.8 Governing law & Jurisdiction - This Agreement shall be governed by the laws of the State or Territory of Australia specified in the Contract Details and the parties submit to the non-exclusive jurisdiction of the courts of that State or Territory and any appeal courts from them.
- 8.9 Lost and Stolen Devices - If the End User device is lost or stolen a quotation for a new device, based on product model availability and prevailing costs will be provided to You. Upon written acceptance a new device will be provided, fully provisioned to You.  
If possible, a replacement device from the swap pool will be provided to You while the proposal for the new device is accepted. This will reduce the swap pool by one unit. The replacement device must be returned immediately following delivery of the newly provisioned device.

## **9. Interpretation**

In this Agreement, unless the contrary intention appears:

- 9.1 monetary references are references to Australian dollars;
- 9.2 headings are for convenience only and shall not affect the interpretation of this Agreement;
- 9.3 words in the singular include the plural and vice versa;
- 9.4 a reference to a clause, Schedule or annexure is a reference to a clause, Schedule or annexure of or to this Agreement;
- 9.5 a reference to a party to this Agreement includes that party's successors and permitted assigns; and
- 9.6 a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

## **10. Installation**

- 10.1 The Seller's Quotation or Sale Invoice is made on a supply only basis. Installation, staging and commissioning (if any) is at the expense of the Buyer unless otherwise specified in writing by the Seller.

## **11. Manufacturers' Changes**

- 11.1 Where the Seller is acting as an agent for a manufacturer or supplier, the Seller shall not be liable for any alteration or variation in the goods made by the manufacturer or the supplier. In the event that the original unit ordered and supplied is no longer available, AirData will make available an evaluation unit for End User acceptance testing provided AirData can source an evaluation unit from the manufacturer. An evaluation unit will also be provided to the End User provided AirData can source an evaluation unit from the manufacturer, in the event the End User would like to refresh their current installed base. An evaluation unit will not be provided as an advance replacement unit.

**12. Service Warranty**

12.1 Seller warrants the work done by its representatives to be free from defects in workmanship for a period of 30 days after date the work is supplied. There are no other warranties, express or implied. If any portion of the work proves to be defective within such 30 day period and prompt notification is made in writing, the Seller will, at its own expense, supply the necessary technical direction or consultation to correct the defect. The foregoing shall constitute the sole remedy of the purchaser and the sole liability of the Seller whether in warranty or otherwise.