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Master Terms & Agreements

Definition Schedule

INTRODUCTION AND GENERAL TERMS

Relationship with Comtrac's Master Services Agreement

This document forms part of the Comtrac Master Services Agreement (MSA). This document should be read in concert with all other documents which constitute Comtrac's MSA and other referenced material found at the Comtrac Trust Portal (<https://trust.comtrac.com.au>).

Comtrac Definition Schedule

"**Acceptable Use Policy**" or "**AUP**" means the document titled "Comtrac Acceptable Use Policy For Comtrac Services" which forms part of this MSA.

"**Agency**" means a government department, law enforcement agency, authority or body to which Comtrac provides the Comtrac Services.

"**Agency Provisioning Guide**" means a set of system components which comply with the ISM and are pre-configured and managed by Comtrac and/or a Comtrac contractor.

"**Allowed Number**" means the maximum number of Bundles available to be used by the Customer which are included in the Fees and Charges for each year of the Term, as specified in the Order Form.

"**Australian Consumer Law**" means Schedule 2 to the Competition and Consumer Act 2010 (Cth).

"**Bundles**" means the integration and execution bundles made available through DocuSign and the AI assist bundles made available through Azure and any other third-party cost per access/usage technology, product or service used by the Customer and set out as a Bundle in the Order Form or as otherwise agreed between the parties.

"**Business Day**" or "**Business Hours**" means 8am to 5pm (AEST), Monday through Friday, excluding public holidays in Brisbane, Australia.

"Change of Control" means a change in the shareholders of a Customer, or such a change in the composition of the board of directors of the Customer which has the effect of taking the control of the Customer away from its existing shareholders or directors, as the case may be, or puts the Customer under the control, direct or indirect, of persons or companies different from those in control as at the Commencement Date. For the avoidance of doubt a change of 51% or more in the shareholding of the Customer from the shareholding of that party at the Commencement Date is a change of control.

"Claim" means any claim, action, demand or proceeding however arising (including under contract, statute, common law or equity) in respect of any Loss or alleged Loss.

"Comtrac"/"We"/"Us"/"Our" means Investigation Management Australia Pty Ltd ACN 159 058 241 trading as Comtrac.

"Comtrac Cloud Environment" means the cloud platform, resources, Application Programming Interface(s) (APIs) and Comtrac managed cloud hosting environments, employed in providing the Comtrac Services but does not include Customer Owned Environments.

"Commencement Date" means the Commencement Date set out in the Order Form.

"Comtrac Cloud Environments Terms" means the document titled "Comtrac Cloud Environments For Comtrac Services" which forms part of the MSA.

"Comtrac Customer Environment" means the cloud environment in which access to the Comtrac Software is provided to the Customer.

"Comtrac Data" means any Comtrac information, data or document including any digital, written or printed material or object, a sound recording, coded storage device, magnetic tape or disk, microfilm, photograph, plan, model or painting or any other picture or graphic work, video, software related application information, voice and facial recognition, biometric information, algorithm and the like which has been utilised, kept or stored electronically. Comtrac Data includes Services Intellectual Property and any Comtrac Services related information, including information required to be retained by Comtrac as a business or legal requirement.

"Comtrac Services" means the Comtrac Customer Environments and the Comtrac Software, owned by or licenced to Comtrac and provided to the Customer by Comtrac as set out in an Order Form or otherwise provided from time to time, but does not include Customer Owned Environments.

"Comtrac Software" means software created by Comtrac as an investigation management platform.

"Comtrac Statement of Commitment" means the undertaking by Comtrac to meet minimum the security standards set out within the Information & Cybersecurity Standards.

"Comtrac System(s)" means the technology systems and networks owned by or licenced to Comtrac to allow Comtrac to provide the Comtrac Services and includes the Comtrac Software and the Comtrac Cloud Environment.

"Comtrac Trust Portal" means the Customer portal at trust.comtrac.com.au.

"Confidential Information" means any and all data and information of any nature and in any form (including electronic, magnetic and other intangible forms, whether capable of being read by natural persons or not) and whether or not the record is an original or a copy of or extract from the original or another copy or extract, concerning the Comtrac Systems, the Comtrac Software, assets, operations, dealings, organisation, personnel, business strategies, customers, technology, Intellectual Property Rights, trade secrets or know-how of a person which is received by, disclosed to, or discovered by the other party before, on, or after the date of this MSA under, in connection with or as a result of this MSA or any action taken under this MSA, and includes the terms of this MSA and all data stored, created, generated, compiled, arranged, developed for or Processed by the Comtrac Services, but does not include information which: is or becomes part of the public domain through no act, failure to act or default of the Receiving Party or any person associated with, or who received that information from or as a consequence of disclosure by, the Receiving Party; is disclosed to the Receiving Party by a third party lawfully in possession of such information and who is under obligation to maintain such information in confidence; was in the Receiving Party's possession prior to receipt by, disclosure to or discovery by the Receiving Party; or is developed independently by the Receiving Party without use of or reference to the other party's information.

"**Consent**" of the Data Subject means any freely given, specific, informed, and unambiguous indication of the Data Subject's wishes by which they, by a statement or by clear affirmative action, signifies agreement to the Processing of Personal Data relating to them.

"**Customer**" means the Customer named in the Order Form.

"**Customer Data**" means any Customer records, data, evidence, documents and information including any digital, written or printed material or object, sound recording, coded storage device, magnetic tape or disk, microfilm, photograph, plan, model or painting or any other picture or graphic work which has been kept, stored or communicated electronically or otherwise by or on behalf of the Customer in connection with the Customer's activities when using the Comtrac Services. Customer Data does not include Services Intellectual Property.

"**Customer Database**" means the database (PostgreSQL or other like service) within the Customer's Comtrac Cloud Environment or Customer Owned Environment, used to structure, store, access, manage, modify, update, control and organise Customer Data and any other information collected by the Customer through the Customer's use of the Comtrac Services.

"**Customer Owned Environment**" means a cloud or on-premises hosting environment managed by the Customer or on behalf of the Customer by a party other than Comtrac, and Customer Systems and Hardware used to access the Comtrac Services and over which Comtrac has neither ownership nor control.

"**Customer Systems**" and "Customer Systems and Hardware" means the Customer's technology systems, software, networks and hardware owned by or licenced to the Customer.

"**Customer's Security Representative**" means the person nominated as such on the most recent Order Form for the Customer.

"**Data Controller**" has the meaning given to it in the GDPR and in this MSA means the Customer.

"**Data Processing Agreement**" or "**DPA**" means the document titled "Data Processing Agreement for Comtrac Services" which forms part of this MSA.

"Data Processor" has the meaning given to it in the GDPR and in this MSA means Comtrac.

"Data Protection Requirements" means the GDPR, local EU/EEA Data Protection Laws, and any applicable Laws, regulations, and other legal requirements relating to (a) privacy and data security; and (b) the use, collection, retention, storage, security, disclosure, transfer, disposal, and other Processing of any Personal Data.

"Data Subject" means the individual to whom Personal Data (information) relates.

"Definitions Schedule" means this document titled "Definition Schedule For Comtrac Services" which forms part of the MSA.

"Diagnostic Data" means data collected or obtained by Comtrac from software that is locally installed by the Customer (or its Personnel) in connection with the Comtrac Services. Diagnostic Data may also be referred to as 'telemetry'. Diagnostic Data does not include Customer Data or Service Generated Data.

"Disengagement" means the process which is to occur after expiry or termination of this MSA, as set out under the clause headed "Disengagement".

"Disclosing Party" means the party to whom Confidential Information belongs.

"End Date" means the earlier of the last date of this Term as specified on the Order Form or the date this MSA is otherwise terminated in accordance with its terms.

"End User License", "End User Licence Agreement", "EULA" each mean the legal agreement entered into between Comtrac and Customer Personnel which specifies in detail the rights and restrictions which apply to the use of the Comtrac Systems.

"Fees and Charges" means the fees, costs and charges payable by the Customer to Comtrac for the Comtrac Services, including Third Party Costs, as set out in the Order Form.

"Force Majeure" means:

- Acts of God (including fires, floods, acts of war and terrorism, riots, civil disorders, or rebellions or revolutions affecting Australia;
- Disruption of any facilities, systems, software, equipment or business operations, including but not limited to the impact of information (hybrid) warfare, ransomware

attack, technology or telecommunication outages, cyber security threat or breach and the like;

- Government or statutory restrictions; and

- Strikes lockouts or labour difficulties, lockouts or other industrial disturbance,

if not caused by the party relying on the event or over which the party relying on the event could not reasonably have exercised control. It shall not include, for the avoidance of doubt, a lack of funds or the unavailability of plant and equipment (for any reason).

"**GDPR**" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).

"**GDPR Terms**" means those terms set out under the heading "PART B-European Union General Data Protection Regulation Terms" of this MSA.

"**GST Act**" means A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time.

"**Information & Cyber Security Standards**" means the document titled "Information and Cybersecurity Standards For Comtrac Services" which forms part of this MSA.

"**Individuals**" means natural persons.

"**Insolvency Event**" means the Customer suspends payment of its debts generally, or is or becomes unable to pay its debts when they are due, or is or becomes unable to pay its debts within the meaning of the Corporations Act 2001 (Cth); the Customer, ceases or threatens to cease, to carry on its business; the Customer commits an act of bankruptcy or is made bankrupt; the Customer makes a composition or other arrangement with creditors or assigns assets for the benefit of creditors generally; or the Customer enters into a deed of arrangement or has a receiver, receiver and manager, administrator, trustee or similar official is appointed over the whole or any part of the Customer's assets or undertakings, an application or order is made for the winding up or dissolution of the Customer, or a resolution is passed, or any steps are taken to pass a resolution for the winding up or dissolution of the Customer,

except for the purpose of an amalgamation or reconstruction which has Comtrac's prior written consent.

"Intellectual Property Rights" means all present and future intellectual and industrial property and all intellectual and industrial property rights throughout the world conferred by statute, at common law or in equity and wherever existing and whether recorded in writing or otherwise, including without limitation: patents, encryptions, source code, designs, copyright, rights in circuit layouts, trademarks, know how, processed, brand names, domain names, inventions, product names, trade secrets, product descriptions and information relating to or connected with the business or operations of either party and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration; any application or right to apply for registration of any of these rights; any registration of any of those rights and any registration of any application; and all renewals and extensions of these rights.

"ISM" means the Australian Government Information Security Manual.

"Law" means any statute, regulation or ordinance made by any government or governmental authority and includes the applicable common law.

"Loss" means loss, damage, liability, charge, expense, penalty, outgoing or cost whether direct or indirect, consequential or incidental (including all legal costs on a full indemnity basis) of any nature or kind.

"Major Revisions" means an upgrade to the Comtrac System which Comtrac considers to do any of the following:

- Amend the architecture or high-level structure of the Comtrac System; or
- Add a new module to the Comtrac System which adds a major function to the System.

"Minor Revisions" means an update or upgrade to the Comtrac System which Comtrac considers to do any of the following;

- Improve or add to the functionality of the Comtrac System in a minor way; or
- Add a new module to the Comtrac System which adds only a minor function to the Comtrac System.

"Moral Rights" means

- A right of attribution of authorship;
- A right not to have authorship falsely attributed;
- A right of integrity of authorship; and/or
- A right of a similar nature,

which is conferred by the Copyright Act 1968 (Cth), or which exists or comes to exist anywhere in the world.

"MSA" or **"Master Services Agreement"** means all of the following which, read together, form the MSA:

- The document titled "Master Services Agreement for Comtrac Services";
- Comtrac Cloud Environments Terms;
- Comtrac Definitions Schedule;
- Acceptable Use Policy for Comtrac Services;
- Data Processing Agreement;
- Service Level Agreement; and
- Information & Cyber Security Standard;
- Order Form(s); and
- All schedules and annexures thereto.

"Multi-Tenancy Test/UAT Environment" means the environment that hosts the instances of Comtrac that are used for testing and user acceptance testing prior to deployment to production.

"Non-Agency" means a Comtrac customer in the private sector which is not required to meet the same security standards required of Agencies.

"Non-excludable Rights" means a condition, warranty, right or guarantee implied by relevant legislation, including the Competition and Consumer Act 2010 (Cth), the exclusion of which from the MSA would cause part or all of the MSA to be void or which is otherwise not permitted under that Act.

"Order Form" means the document titled "Order Form" which forms part of this MSA and each Order Form constitutes a separate contract that is entered into between the parties when the Customer signs or otherwise accepts Comtrac to provide specific Comtrac Services started in each Order Form.

"Personal Data" or "Personal Information" means:

- Any information relating to an identified or identifiable natural person and User. In this definition an "Identifiable natural person" is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, psychological, genetic, mental, economic, cultural or social identity of that natural person; and
- Any information defined as "personal information" in the *Privacy Act 1999* (Cth).Th

"Personnel" means any person who is employed by or contracted to the Customer, and the Customer's agents, officers, directors and representatives.

"Pre-existing Intellectual Property" means Intellectual Property Rights owned or controlled by a party that is in existence prior to the Commencement Date or developed independently of this MSA, including anything which the party may determine, in its sole discretion, to make available for the purposes of:

- Using and facilitating access to the Comtrac Services;
- Complying with its obligations under this MSA; and/or
- Or which the other party may have access to or obtain copies of as a result of this MSA.

"Privacy Laws" means all applicable privacy Laws and any code of practice or compliance code appropriate or relevant, including without limitation the *Privacy Act 1888* (Cth).

"Process" and "Processing" means any operation or set of operations which is performed on Personal Data, or on sets of Personal Data whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission,

dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

"Profiling" means any form of automated Processing of Personal Data consisting of the use of Personal Data to evaluate certain personal aspects relating to Individual, in particular to analyse or predict aspects concerning Individual's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour (including possible criminal behaviour), location or movements.

"PSPF" means the Australian Government Protective Security Policy Framework.

"Receiving Party" means the party receiving Confidential Information.

"Related Entity" means a "related entity" and a "related body corporate" as defined in section 9 of the Corporations Act 2001 (Cth).

"Relationship Representative" means the person nominated as such on the Order Form.

"Revision" means an update to the Comtrac System which eradicates an error, flaw, failure, or fault in the coding or design of the Comtrac System that causes it to produce an incorrect or unexpected result, or to not behave in accordance with its intended use.

"Scheduled Maintenance" means reasonable Unavailable Time for essential Scheduled Maintenance or for updates to and of the Comtrac Services and Comtrac Software.

"Service Credit(s)" means the credits which may be provided by Comtrac to the Customer in accordance with the terms of this MSA.

"Services Intellectual Property" means all Intellectual Property Rights:

- Developed, produced, or created as a result of Comtrac providing the Comtrac Services and performing its obligations under the MSA or otherwise and whether or not developed, produced, or created by Comtrac, the Customer, its Personnel or another third party, including any future works of copyright as soon as it is created; and
- Any new Intellectual Property Rights in the Comtrac System, including without limitation the source code developed after the Commencement Date, including

which is any way arising out of, from or based on the Pre-existing Intellectual Property Rights;

"Service Level Agreement" or **"SLA"** means the document titled "Service Level Agreement For Comtrac Services" which forms part of the MSA .

"Service Level Commitments" means the service levels in respect of the Comtrac Services set out in the SLA.

"System" means a related set of hardware and/or software used for the processing, storage or communication of information, data and the governance framework in which it operates.

"Service Generated Data" means data generated or derived by Comtrac through the operation of the Comtrac Services.

"Single-Tenancy Environment" means an environment that has its own compute, storage and resources in Azure, and is isolated from all other Comtrac instances.

"System Owner" means the Customer appointed and suitably qualified Individual employed by the Customer who is responsible for ensuring the secure operation of their Systems, and for working with Comtrac for the delivery of the Comtrac Services.

"Tax Invoice" has the meaning given the GST Act.

"Technical Failing" means a technical performance failure resulting in the Comtrac Services not functioning as intended or agreed.

"Telecommunications Service Providers" means the carriage service provider defined under the Telecommunications Act 1997 (Cth) and engaged by the Customer for internet and data connectivity.

"Term" means the term of this Agreement, being the period from the Commencement Date to the End Date and including any extensions thereof.

"Third Party Costs" means those Fees and Charges specified as "Third Party Costs" on an Order Form or as otherwise agreed between the parties from time to time.

"Third-Party Service Providers" means any third-party which provides a service, including software, to Comtrac or the Customer upon which the Comtrac Services depend in order to be provided effectively in Comtrac's opinion acting reasonably.

"Unavailable Time" means the time when the Comtrac Services are partially available, or not available. Unavailable Time does not include Scheduled Maintenance time.

"Users" means Customer Personnel and anyone authorised by the Customer to access, use and facilitate the Comtrac Services or Comtrac System, including but not limited to agents, executives, employees, contractors and third parties. Users excludes Comtrac's employees, contractors, agents and officers.

"Current Version of the Comtrac System" means the then current and up to date version of the Comtrac System including all Minor Revisions, Major Revisions and any other Revisions made at that time.

"WHS Laws" means all applicable work health and safety Laws (including all dangerous goods, fire and electrical safety legislation) and any directions or notices issued by any relevant federal, state or local or other governmental Department, authority, agency, commission or tribunal and any code of practice or compliance code appropriate or relevant (including work performed in accordance with this MSA), including without limitation the Work Health and Safety Act 2011 (Qld) and WHS Regulation means the *Work Health and Safety Regulation 2011* (Qld).