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*Master Terms & Agreements*

## ***Service Level Agreement***

# 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>).

## Definitions

In this document, unless the contrary intention appears, terms have the meaning given to them in the Comtrac Definition Schedule.

## Comtrac Service Level Agreement

This Service Level Agreement (**SLA**) forms part of the MSA.

## Applicability

This SLA applies to the Comtrac Services. It does not apply where the Comtrac Services are dependent upon the provision of services by an independent third-party, such as Telecommunications Service Providers, or when Customer Systems and Hardware is involved or at times of scheduled maintenance by Comtrac or at times where the Customer cannot provide Comtrac with the required access to the Customer's Systems and Hardware. This SLA applies for the term of the MSA.

## Our Service Level Commitment

Availability of Comtrac Services: Comtrac will take commercially reasonable efforts to avoid Unavailable Time for Comtrac Services and aspire to 99% availability of

Comtrac Services in each calendar year averaged over that year. This aspirational availability does not include Scheduled Maintenance, or any Unavailable Time caused by Customer Systems and Hardware or Third-Party Service Provider(s) or inability to access those.

Availability of Comtrac Services Support: General Comtrac Services support will be provided to the Customer 24 hours per day, 7 days per week. If the Comtrac Services Support relates to a Technical Failing, Comtrac will use commercially reasonable efforts to resolve the Technical Failing in line with the severity and impact of the Technical Failing. The response and resolution times to Technical Failings are outlined below:

- **Critical (Severity 1):** A technical Failing that has critical impact on the ability of the Customer to conduct business, including any loss of revenue or significant corruption of Customer Data, and includes a complete outage of the relevant Comtrac Services; or Users cannot access the relevant Comtrac Services for a period of more than 1 hour; or the security measures or controls utilised for the relevant Comtrac Services have been compromised; or the relevant Comtrac Services need to be restored from backup. In the event of Critical Technical Failings, Comtrac will make best efforts to resolve the Technical Failing within four hours from the time of notification of the Technical Failing to Comtrac or Comtrac becoming aware of the Technical Failing.
- **Substantial (Severity 2):** A Technical Failing which substantially and adversely affects the ability of the Customer to conduct business; or unavailability of an essential feature or function resulting in substantial performance degradation for a period of more than 2 hours. In the event of Substantial Technical Failings, Comtrac will make best efforts to resolve the Technical Failing within 24 hours from the time of notification of the Technical Failing to Comtrac or Comtrac becoming aware of the Technical Failing.
- **Unsubstantial or Inconsequential (Severity 3):** A Technical Failing which does not substantially and adversely affect the ability of the Customer to conduct business, but which results in the Customer's inability to access or use nonessential aspects of the Comtrac Services. In the event of Unsubstantial or Inconsequential Technical Failing, Comtrac will make best efforts to resolve the Technical Failing

within 48 hours from the time of notification of the Technical Failing to Comtrac or Comtrac becoming aware of the Technical Failing.

- **Third-Party Affective Availability:** In the event that Unavailable Time is caused by a Third-Party, Comtrac will take commercially reasonable efforts to resolve the unavailability by liaising directly with the service provider(s). The Customer acknowledges and agrees that Comtrac is in no way responsible or liable for Comtrac's failure to meet Service Level commitments that arise from the performance failures of third parties, as Comtrac has no control of the service provider's ability or willingness to provide such response.

Comtrac will monitor Comtrac's actual performance of the Comtrac Services against the Unavailable Time and will provide monthly reports to the Customer where possible.

## **Service Level Credits**

Where the Customer experiences Unavailable Time during a month of the Term, the Customer will be entitled to Service Level Credits in respect of that Unavailable Time which is due to a Technical Failing that is Critical, Substantial or Unsubstantial or Inconsequential, but not a Third-Party Affective Availability.

The Customer must apply for the Service Level Credits and provide Comtrac with written notice of its intention to claim Service Level Credits by no later than:

1. 1 Business Day of the following calendar month in which the Unavailable Time occurred; and
2. In respect of the last month of the Term, within 5 Business Days of the last day of the Term.

The Service Level Credits to which the Customer will be entitled for Comtrac's failure to meet Service Level Commitments is determined by the total amount of time that the Comtrac Services are not available to each User of the Customer in any calendar month, where the Discount Percentage:

- Is under 8 hours – nil;

- Is 8 hours or more but less than 25 hours – 5%;
- Is 25 hours or more but less than 160 hours – 10%;
- Is 160 hours or more – 15%.

Service Level Credits are only applicable to the Fees and Charges of the 1 calendar month in which the Unavailable Time occurred and are only in respect of the Fees and Charges of the affected End User License(s) for that month. Service Level Credits are not applicable to Third Party Costs or Bundles.

For example, if there is 1 User who experiences Unavailable Time of 10 hours in a calendar month and has a monthly Fee of \$100 for their End User Licence, the Service Level Credit given to Customer for that User is \$5. If there are 10 Users who experience unavailable Time of 10 Hours each in that calendar month and who each have a monthly Fee of \$100 for their End User Licence, the Service Level Credit given to the Customer for those Users for that month is \$50.

This example is only provided to ensure clarity of the mechanics used when calculating Service Level Credits.

The Service Level Credits will be applied against the next Tax Invoice due to Comtrac for the Comtrac Services. Where the Customer has paid the whole Fees and Charges for the Term in advance, the Customer, upon written request, may receive Service Level Credits in the form of a cash refund.

If a single incident or issue gives rise to multiple occurrences of Unavailable Time for the same User, as determined by Comtrac in its reasonable judgement, then the Customer will only be entitled to a Service Level Credit for the Unavailable Time for that User which that is associated with the longest number of continuous hours of Unavailable Time caused by that incident or issue. For example, if a User experiences 10 hours Unavailable Time and then subsequently 20 hours Unavailable Time, both as a result of the same issue or incident, the Customer will be entitled to 1 Service Level Credit of 5% of the Fee for that End User Licence for that month on account of the instance of 20 hours Unavailable Time.

Comtrac will be excused from Unavailable Time occurrences, and the Customer will not be entitled to any Service Level Credit, for a failure to meet Service Level Commitments that are caused by:

- Acts or omissions of the Customer, its Personnel, Customer Security Representative, affiliates, Representatives, contractors or agents;
- Any events outside of Comtrac's reasonable control (including, for the avoidance of doubt, any Force Majeure events);
- Any delay or failure of the Customer, its Personnel, Customer Security Representative, Affiliates, Representatives, contractors or agents to perform the Customer's obligations under the MSA, including, without limitation, delay, or failure of Customer to act (for example, review, approve, or reject) in a manner reasonably requested by Comtrac (but such request shall not cause the Customer to incur material out-of-pocket costs) in a timely manner; and/or
- Any other breach of the MSA by or on behalf of the Customer that materially or adversely impacts Comtrac's ability to limit Unavailable Time or which causes or contributes to Unavailable Time.

The Service Level Credits will constitute the Customer's sole and exclusive remedy for any unavailability or non-performance of the Comtrac Services or other failure by Comtrac to provide the Comtrac Services.

## **The Customer Responsibility**

In the event the Customer identifies Unavailable Time or a Technical Failing, the Customer must report the matter to Comtrac within 24 hours of the Unavailable Time or Technical Failing occurring by raising a support ticket within Comtrac itself, or by email to [support@comtrac.com.au](mailto:support@comtrac.com.au).

The support ticket must include all reasonably available information to assist Comtrac to understand the request and diagnose the cause of the Unavailable Time or Technical Failing and provide the Customer's own reasonable assessment of the severity of the Technical Failing based on the impact (and classified into one of the categories specified above); and provide and/or grant remote electronic or physical access to the Customer's Comtrac Services and any Customer System and Hardware supporting the Comtrac Services; and Provide access to any premises

where the relevant their Comtrac Services are used by the Customer or the Customers Systems and Hardware are located.

## Responding to Support Requests

If a support request is raised by the Customer, Comtrac will make best efforts to:

- Issue a reference number to the Customer;
- Attempt to contact the Customer's Representative to establish any further details required and/or make best efforts to resolve the request; and
- Make all reasonable efforts to resolve the support request in line with the response times outlined in this SLA.

Comtrac may propose a 'work-around' for the support request. Comtrac will reasonably endeavour to resolve all issues within a timely manner, however, no specific response times nor problem resolution times are guaranteed in respect of a support request.

## Limitations

This SLA and any applicable Service Level Commitments do not apply to any performance or availability issues:

- If the issue is caused by the Customer or the Customer's Personnel or Representative's use of the Comtrac Services after we advised you to modify your use of the Comtrac Services, if you did not modify your use as advised;
- During or with respect to preview, pre-release, beta or trial versions of a Comtrac Services, feature or function (as determined by us);
- That result from the Customer or the Customer's Personnel or Representative's unauthorised action or lack of action when required, or from your employees, agents, contractors, or vendors, or anyone gaining access to the Comtrac Services by means of your passwords or equipment, or otherwise resulting from your failure to follow appropriate security practices;

- That result from the Customer or the Customer's Personnel or Representative's failure to adhere to any required configurations, use supported platforms, follow any policies for acceptable use, or use of the Comtrac Services in a manner inconsistent with the features and functionality of the Comtrac Services (for example, attempts to perform operations that are not supported);
- That result from faulty inputs, instructions, or arguments (for example, requests to access files that do not exist);
- That result from your attempts to perform operations that exceed prescribed quotas or that result from suspected abusive behaviour; and/or
- For Comtrac Services licences not paid for, at the time of the issue.