

# Mobenzi Software as a Service Order

Version 1.0 – Last Updated 09.02.2018

## 1. Introduction

- This order (“SaaS order”), together with our general [Customer Relationship Terms - v1.0 \(“CRTs”\)](#), and any proposals issued by us and accepted by you which reference this order make up the Agreement. The Customer Relationship Terms are identified and incorporated into these terms by this reference. They may be accessed at [www.mobenzi.com/terms.html](http://www.mobenzi.com/terms.html), or are available on request from us.
- The parties acknowledge that they have read, understood, accepted to be bound by this order.
- This order supersedes any existing platform services orders you may have with us.
- These special terms contain the commercial terms between us and you relating to our provision of software as a service to you.
- We are Mobenzi Technologies (RF) (Pty) Ltd (Registration number 2015/002582/07), a specialist service provider, and have developed or obtained the rights to provide the software as a service which includes our web console, mobile applications and API. You wish to make use of the software as a service we provide in your organisation as our customer. We make the application available to you through the Internet as a service. The provision of the software as a service lets your authorised users access the application and make use of the software as a service.

## 2. Definitions

In these terms:

- **account** refers to all application instances, data, users and settings which are created, stored and managed through your use of the software as a service and any associated services;
- **account owner** means the person ultimately responsible for your account, they are the person who initially signs up for the plan and creates additional users, upgrades, downgrades and parks the account;
- **account administrator** means an authorised user who is nominated by you to provision, manage, and administer certain services;
- **authorised user** means you or a user who has been granted permission where you are a juristic person, who has been assigned credentials;
- **API** means the application program interface we provide that you might use to communicate with our systems to use the services;
- **API specifications** means our required technical and administrative specifications, interface standards, regulations, procedures and communication protocols that you are required to comply with to use the services, as notified by us in writing from time to time;
- **credentials** means a unique username and password that has been assigned to or selected by an authorised user;
- **critical system issue** means a system issue that materially prevents you from performing your primary functions in your organisation, and includes the software as a service being unresponsive or inaccessible;

- **free plan** means a plan for which no recurring fee is levied;
- **initial period** means a unique username and password that has been assigned to or selected by an authorised user;
- **mobile app user** means a user who uses our mobile application to interact with the software as a service (to capture the data amongst other activities);
- **non-critical system issue** system issue means a system issue that does not materially prevent you from performing your primary functions in your organisation;
- **paid plan** means a plan for which a recurring fee is levied;
- **plan** means the tiered monthly or annual subscription which determines the service levels, feature features, fees and limits applicable to your account;
- **renewal period** means the duration following the initial period for which you extend your use of the software as a service through the automated renewal of your plan;
- **software as a service** means the ability we provide to you to use our software running through the Internet as a service;
- **support request** means a question or query from an authorized user relating to the normal use of the software as a service, as well as billing or account queries;
- **system** means the software as a service and any related infrastructure upon which the software as a service relies;
- **system issue** means any bug, problem, error or difficulty preventing normal operation of the system;
- **termination period** means the remaining duration between the date on which the account owner cancels the account and the last day of the renewal period;
- **third party software** means all third party software owned by a third party but legally licensed to us for use in providing the services;
- **updates** means any updates, patches, corrections, by-passes or revisions to the system, excluding upgrades, which add no functionality to the system that are provided to you under this agreement;
- **user profile** means the data, settings, credentials and access associated with an authorised user;
- **web console** means the section on the website accessible by you through a web browser that lets you control certain aspects of the services;
- **web console user** means an authorised user who uses our web console to interact with the system (to design forms, access reports and so on); and
- **website** means the website at the domain as may be designated by us in writing from time to time that provides you with access to the software as a service;

### 3. Duration

- If your account owner has selected monthly billing, your selected plan will automatically renew each month for a period of one calendar month. If your account owner has selected annual billing, your selected plan will automatically renew each year for a period of one calendar year.
- Any fees applicable to the renewal period will become due immediately upon the renewal of your plan.
- This agreement will start on the date your account is registered and will continue until:
  - the end of the termination period should the account owner cancel the account; or
  - we terminate your account in terms of this agreement; or
  - as agreed otherwise between the parties in writing.
- Any clauses which are indicated as surviving the termination of this agreement will remain valid.

## 4. Changes

- We will notify you with at least 30 days' notice of any changes to these terms.
- You will be deemed to have accepted any changes to these terms should you not cancel your account before changes come into effect.
- In the event that changes to these terms are made and you elect to cancel your account before these changes come into effect, you will receive a pro-rated refund (less any local taxes or bank charges) for any pre-paid purchases.

## 5. Account Registration

### 5.1. Registration required

- You must register an account to use the services. We reserve the right not to enter into the agreement with you (reasons could include for example that you have previously been suspended from using our services or you pose an unacceptable level of risk for us).
- The user who registers the account automatically becomes the account owner.

### 5.2. Registration information

To register an account, you must:

- provide your full legal name, a valid email address, and any other information requested by us to complete the registration process;
- have the legal capacity to conclude legally binding contracts;
- possess the legal right, full power, and authority to enter into the agreement;
- be old enough under applicable law to enter into the agreement;
- submit true, accurate and correct information to us; and
- if you are juristic person, the person making application on your behalf must also be duly authorised to conclude contracts on your behalf.

### 5.3. Identify verification

It is important for us to know who we are doing business with. You authorise us to make any enquiries we consider necessary to verify your identity. This includes:

- conducting a credit check on you;
- asking you to provide us with documentation such as your registration documents if you are a juristic person, the front page of your ID book if you are a natural person, or proof of your address; and
- verifying this against third party databases.

## 6. User profiles and security

## 6.1. Credentials

- Each user added to your account will be required to select credentials when registering a user profile which will enable them to sign into your account on our website.
- If you are a juristic person, you will have to designate specific authorised users and administrators.
- Only you may use your or the relevant authorised user or administrator may use their credentials.
- We do not permit multiple people to share credentials.

## 6.2. Choice of passwords

- Each authorised user must choose a password. We may prescribe requirements for this password on our website, including that it must be of at least a certain length and must contain at least one of certain types of characters. Please do not use derivatives of your username and common character sequences such as '123456'. Also please do not use personal details such as your spouse's name, car registration number, ID number, passport number and birthday, unless accompanied by additional unrelated characters.

## 6.3. Access

- Only authorised users may access the web console using their credentials. Only activated mobile app users may access the mobile application

## 6.4. Authorised user obligations

Each authorised user agrees:

- to create their credentials on request or use the credentials assigned to them;
- that we may refuse to register their user profile with particular credentials if we deem them to be inappropriate;
- to keep their credentials secure;
- not to provide access to any person other than an authorised user;
- not to interfere with the functionality or proper working of the service
- not to introduce any viruses, worm, logic bomb, trojan, wares, potentially unwanted program (PUP), or other malicious software into the service; and
- not to use the service for direct marketing, spamming, unsolicited communications, or other advertising or marketing activities prohibited by applicable law.

## 6.5. Account administrator obligations

Each account administrator agrees:

- not to use bots or other automated methods to register authorised user accounts;
- to make a list of all authorised users available to us on request;
- to immediately notify us in writing of any compromised credentials by an authorised user;
- to ensure that authorised users who are no longer authorised to use the service do not use the service;

- to notify us of any known breach of our privacy policy; and
- to take reasonable measures to ensure that authorised users do not introduce any viruses, worm, logic bomb, trojan, wares, potentially unwanted program (PUP) or other malicious software into the service.

## 6.6. Your instructions

- Each authorised user is responsible and liable for activities that occur under their user profile.
- You authorise us to act on any instruction given by an authorised user, even if it transpires that someone else has defrauded both of us, unless you have notified us in writing prior to you acting on a fraudulent instruction.

## 6.7. Monitoring security

We reserve the right to take whatever action we deem necessary to preserve the security and reliable operation of our software as a service and you undertake that you will not do or permit anything to be done which will compromise our security. If:

- we are unable to verify any information you provide to us; or
- we reasonably believe that your activities pose a significant credit or fraud risk to us or our other customers, or may cause financial loss or legal liability for us, our other customers, or you.

# 7. Services

## 7.1. Grant of license

- We grant you a non-exclusive and non-transferable licence to use the software as a service in object code form for the duration of this agreement. Object code form is the ready-to-execute version of the software which a compiler has already translated from source code into a language that a computer can run. It does not include the source code, which is the programmer's original instructions in a high-level programming language that a compiler needs to convert into object code before a computer can run them.

## 7.2. Our obligations

- We will provide you with access to the software as a service via the Internet. We will use all reasonable efforts to maintain a minimum of 99.5% uptime of the system, excluding scheduled maintenance.
- If we do not meet our availability obligations the maximum we will refund is a pro-rata amount of your monthly subscription fee for the downtime experienced. This will be given as a discount on your invoice for the following renewal period.
- Access will be restricted to authorised users.
- We are not responsible for providing you with Internet access, telecommunications, hardware or other infrastructure required to access the software as a service.

## 7.3. Your obligations

- You must comply with our operating policies as published on our website from time to time, as we may be amended from time to time in our sole discretion. We may amend them by sending you notice of the amendment (we will do our best to send you the notice at least 30 calendar days in advance)

## 7.4. Fair usage policy

- **API.** We reserve the right, in our sole discretion, to throttle or reject API requests should such actions place unreasonable strain on the system. This may include rejecting API requests for large data exports, repeated or inefficient requests or other queries which we deem unnecessarily resource intensive.
- **Acceptable use of our mobile applications.** We reserve the right, in our sole discretion, to throttle or reject data uploads or downloads which we deem to fall outside normal acceptable usage parameters. This includes, but is not limited to: submissions containing high resolution multimedia, large quantities of binary data and making use of the service to primarily transmit data intensive files or payloads.
- **Acceptable use of the web console.** We reserve the right, in our sole discretion, to throttle or reject export requests or general usage which places unreasonable strain on the system.

## 7.5. API

- If supported by your plan, authorised users and administrators may be able access their account via an API. Authorised users and administrators must not abuse the API specifications. Any abuse or misuse of the API may lead to suspension or termination of the services.
- Where you access your account via an API, you are responsible for meeting and complying with the API specifications.
- We may change or republish the API specifications for any service from time to time. It is your responsibility to ensure that the application calls made to a service are compatible with then current APIs for that service. If we remove a material feature or function of the API, we will provide you with at least 30 calendar days written notice and will ensure that backward compatibility with any previously valid APIs is maintained for a period of 90 calendar days. Thereafter, we may remove the previously valid APIs. You must make changes to your systems, at your expense, which may be necessary to comply with the amended API specifications.

## 7.6. Service levels

We will provide the services with the following service levels:

- **Unscheduled downtime.** We will use all reasonable efforts to maintain a minimum of 99.5% uptime, excluding scheduled maintenance. We may perform emergency maintenance when necessary.
- **Scheduled downtime.** From time to time, it may be necessary for us to schedule routine maintenance of the system. Therefore we may schedule up to 7 hours of downtime per month to perform routine system maintenance, updates and upgrades. We will use all reasonable efforts to minimise the impact of scheduled downtime (including typically performing the scheduled routine maintenance during periods of lowest usage). If the scheduled downtime is expected to endure for a period longer than 30 minutes then we will provide you with prior notice.

## 7.7. Data security and hosting infrastructure

We will host your data securely as follows:

Data Centre	AWS EU Region
Data encryption	256-bit SSL in transit
Off-site data backup	Every 15 minutes to Amazon S3
Automated data auditing	Yes

## 8. Access requirements

### 8.1. Mobile device requirements

- We support certain Android devices running version 4.0.3 or above of the Android operating system.
- Certain features may require additional hardware or software pre-requisites.
- Whilst we endeavor to support all devices which meet these minimum criteria, we cannot warrant that our mobile applications will function on all devices, even those which meet any specified minimum criteria.
- We reserve the right to discontinue support for older versions of Android on 60 calendar days' notice.
- It is your responsibility to ensure that your mobile app users are using the latest version of our mobile applications at all times.

### 8.2. Web browser requirements

- The web browsers officially supported by our web console are Google Chrome 60+, Microsoft Internet Explorer 10+, Microsoft Edge 40+ and Mozilla Firefox 55.0+.
- We reserve the right to discontinue support for web browsers and adjust minimum version requirements on 60 calendar days' notice

## 9. Plans

We offer various plans to suit your specific requirements. These plans provide access to varying features of the software as a service and impose limits specified below.

	COMMUNITY	ESSENTIAL	STANDARD	PREMIUM	ENTERPRISE
<b>CORE FEATURES</b>					
Data export formats	CSV, Excel	CSV, Excel and Stat/Transfer			
Fieldworker management tools	Limited	✓	✓	✓	✓
Active mobile app user limit	5	25	50	200	500
Web console user limit	2	Unlimited			
Projects (studies) limit	1	2	4	10	25
Project-level permissions	-	✓	✓	✓	✓
Storage limit	1GB	10GB	20GB	50GB	100GB
Forms (surveys) limit	10	Unlimited			
Form submissions limit	500/month	Unlimited			
Configurable form completion behaviour	✗	✓	✓	✓	✓
Published reports	✗	✓	✓	✓	✓
Case management	Limited	✓	✓	✓	✓
API access	✗	✓	✓	✓	✓

- Plan specifications may be amended from time-to-time with 60 days' notice. Increases to plan limits may take effect immediately. Decreases to plan limits or removal of any account benefit will only take effect at the renewal date of your billing cycle.
- For the purposes of this clause, the following definitions are necessary:
  - **Storage** includes all data associated with the account including archived data. Should you reach your storage limit, you will no longer be able to upload/store additional data. **This may result in data loss.**
  - Should you reach your **form submission limit**, no further submissions will upload until the following renewal period. **This may result in data loss.**
  - **Active mobile app user limit** refers to the maximum number of devices using the Android mobile app which can be active at the same time. Only activated devices can capture,



send or receive data. Devices can be manually activated/deactivated at any time from the web console by a suitably authorised user.

- **Web console user limit** refers to the maximum number of authorised users who may be associated with your account.

## 9.1. Community plan

- This is a free plan that provides limited access to certain features of the software as a service.
- You may only register one account using the free plan per organisation.
- We reserve the right to modify any aspect of the free plan, including usage limits, features and functionality without notice.
- We reserve the right to terminate your account under this plan after 60 days of inactivity or by giving you 60 calendar days' notice for any reason.
- While you are a subscriber of this plan you and all authorised users associated with the account will receive marketing material advertising our services or those of our partners. If you do not wish to receive marketing material, then you may cancel your account and unsubscribe from our mailing lists. You will not receive any further marketing material from us once you cancel your account and follow the unsubscribe process.

## 9.2. Premium plan

Premium plan customers may elect to subscribe for expansion packs to increase certain plan limits for an additional monthly fee per expansion pack.

	PREMIUM PLAN	PER EXPANSION PACK
<b>PLAN LIMITS</b>		
Active mobile app users	200	+50
Projects (studies)	10	+2
Storage	50GB	+10GB

- Additional monthly fees will also apply per expansion pack for any additional features activated which are not included in the base plan.
- Expansion pack specifications and pricing may be amended from time-to-time with 60 days' notice.
- Increases to plan limits may take effect immediately. Decreases to plan limits or removal of any benefit included in an expansion pack will only take effect at the renewal date of your billing cycle.
- Telephonic support must be accessed via the telephone number provided via your console. An access code may be required to verify your plan.

## 9.3. Enterprise plan

Enterprise plan customers may elect to subscribe for expansion packs to increase certain plan limits for an additional monthly fee per expansion pack.

	ENTERPRISE PLAN	PER EXPANSION PACK
<b>PLAN LIMITS</b>		
Active mobile app users	500	+50
Projects (studies)	25	+2
Storage	100GB	+10GB

- Additional monthly fees will also apply per expansion pack for any additional features activated which are not included in the base plan.
- Expansion pack specifications and pricing may be amended from time-to-time with 60 days' notice.
- Increases to plan limits may take effect immediately. Decreases to plan limits or removal of any benefit included in an expansion pack will only take effect at the renewal date of your billing cycle.
- Telephonic support must be accessed via the telephone number provided via your console. An access code may be required to verify your plan.

## 10. Support

We will provide support to authorised users from accounts subscribed to a paid plan in good standing.

	COMMUNITY	ESSENTIAL	STANDARD	PREMIUM	ENTERPRISE
<b>SUPPORT</b>					
Help Center access	✓	✓	✓	✓	✓
Email support	✗	✓	✓	✓	✓
Telephone support	✗	✗	✗	✓	✓

- Support services do not include data management, form setup or bespoke training.
- We will not edit or access your data nor design forms for you. You may contact sales for a proposal to provide consulting services should you require them.

## 10.1. Help centre

- We will provide access to a web-based repository containing articles and resources to describe common operational use of the software as a service as well as to address common questions and use cases. We encourage users to consult the help centre prior to contacting our help desk.

## 10.2. Help desk

- We will provide an email help desk during our business hours for support requests from authorized users subscribed to paid plans.
- Authorised users must make use of the email address associated with their user profile when lodging a support request.
- Only support requests as defined in this agreement will be responded to.
- If a request does not fall within the scope of the support services defined here, the user who initiated the request will be notified and the request will be closed as resolved. On a case by case basis we may propose alternatives or additional paid services to you which will be governed by a separate agreement.
- We will provide a telephonic help desk to customers subscribed to our Premium and Enterprise plans only. This refers to inbound calls only.
- Telephonic support must be accessed via the telephone number provided via your console. An access code may be required to verify your plan.
- We reserve the right to record all support calls for security and quality control purposes.

## 11. Optional add-on features

- Additional features can be activated for your account by the account owner. Some of these features incur additional recurring fees which will be displayed during the activation process and will align with your base plan billing cycle.
- Activated additional features may be cancelled at any time.

## 12. Plan downgrades and parking

- Only the account owner, or user nominated by the account owner, can downgrade, cancel or park the account. This is done via the account management page or via email sent by the registered account owner's email address.

### 12.1. Downgrades

- Only the account owner, or user nominated by the account owner, can downgrade, cancel or park the account. This is done via the account management page or via email sent by the registered account owner's email address.
- If your usage exceeds any limits of the plan to which you are downgrading, you will be given an opportunity to:

- Select which projects you wish to delete. All content (including forms, data, users, submissions, resources, reports, cases) associated with the selected projects will be deleted permanently.
- Select which mobile devices you wish to deactivate.
- Any paid features being removed from your plan will also be deactivated when downgrading.
- If you are subscribed to a paid plan, you cannot downgrade to the free community plan.

## 12.2. Account parking

- You can park your account for an indefinite period, provided that you pay the relevant monthly parking fee. Should you fail to pay the parking fee, your account will be cancelled without notice.
- Once you have parked your account, you cannot access your account or data or make use of any of the services associated with your plan.
- You may only park your account once in a rolling 12-month period.
- Requests to restore a parked account must be made via the account page.
- A 24 hour restore time is required to restore access to a parked account.

## 13. Fees

Our fees for the various plans are available on our [website](#) or upon request. All fees are due in advance unless specified otherwise.

### 13.1. Fees cover software as a service usage only

The fees will cover the software as a service and not any other software, including any database.

### 13.2. Fee increases

- We may amend the plan pricing from time-to-time with 60 calendar days' notice.
- Any changes to pricing will only take effect at the renewal of your billing cycle or at the end of your period of pre-payment.
- If, after the effective date, the fees payable by you increase as a result of an increase in our pricing plans for whatever reason, including you electing to use additional paid features or upgrading your plan, you will pay us the additional fees.

### 13.3. Upgrades

- If you upgrade your plan, the applicable fees will be pro-rated.
- The account owner or another authorised user nominated by the account owner may upgrade from one plan to another at any time. You will be liable for any additional fees incurred as a result of an upgrade requested.
- Plan upgrades may be executed via your web console or via email to our helpdesk from the email address associated with the account owner.

## 13.4. Payment methods

- We accept credit card payments made via our secure payment portal available from your account.
- We accept EFT payment for Premium and Enterprise plan payments or Essential and Standard plan payments made annually in advance. A pro-forma invoice may be provided upon request.

## 13.5. Time and materials

We may charge you additional fees on a time and materials basis for time that we, in our reasonable opinion, spend in relation to the following:

- data restoration or re-establishment or other assistance required by you that do not result from inherent errors in the software as a service;
- unauthorised use of the software as a service using the credentials of an authorised user linked to your account.

## 13.6. Electronic billing and notices

- You will receive invoices and notices under this agreement electronically by email to the email address associated with the account owner.

## 13.7. Refunds

- If you are not satisfied with the software as a service and you are a consumer as defined in the Consumer Protection Act, we will within 90 calendar days of registering or upgrading to a paid plan, we will refund your first monthly payment less any bank charges or exchange rate fluctuations.
- If you are not satisfied with the software as a service and if you are not a consumer as defined in the Consumer Protection Act, then within 14 calendar days of registering or upgrading to a paid plan, we will refund your first monthly payment less any bank charges or exchange rate fluctuations.
- If we terminate or discontinue the services we will refund you any advanced payments or pro rata fees you have paid us.
- No refunds will be issued for pre-payments or when downgrading from one plan to another. Downgrades to a lower plan will only be executed at the end of the billing period for which you have pre-paid.
- No refunds will be issued when cancelling add-on features activated for your account.
- No refunds will be issued should we cancel your account for AUP violations.

## 14. System issues

- We proactively monitor our systems to detect and resolve system issues. Should you experience a system issue however, you may report this to us via our help desk.

## 15. Excluded services

- All consumables are excluded from the software as a service and will be for your account. Where applicable, you will be notified in advance regarding the costs for any consumables.
- This agreement does not cover any projects.
- If you require excluded or additional services, the parties will follow the procedure set out in this agreement. Any excluded or additional services will be provided under a separate agreement. These services will be quoted and billed for separately under a separate agreement.

## 16. Restrictions

You will not:

- grant any third party direct access to the software as a service, including by way of lease, download, software as a service or as an application, bureau or on-demand software service provider or any other method;
- use the software as a service to provide a service to any third party similar to the software as a service;
- except as specifically provided in these terms, copy, translate, modify, adapt, decompile, disassemble or reverse engineer the software as a service platform;
- merge or combine the whole or any part of the software as a service platform with any other software or documentation without our prior written consent;
- lend or transfer any part of software as a service platform to any third party;
- use our logo or elements of our corporate identity without permission;
- advertise or otherwise imply any commercial relationship with us as a representative, reseller or partner without written authorisation from us;
- redistribute our help and training material to third parties.

## 17. Suspension of service

### 17.1. Without cause

We may modify, suspend, or discontinue providing the services without cause (with or without notice) and will not be liable for doing so.

### 17.2. AUP violation

We may immediately suspend your right to use any of the services if you violate our acceptable use policy.

### 17.3. Preservation of data (suspension)

In the event that we suspend your access to any services, we will not take any action to intentionally erase any of your data in our possession during the period of suspension and the fees will continue to accrue.

## 18. Termination of service

We may immediately terminate this agreement at any time by giving you notice in writing if:

- any software license agreement with a key vendor changes materially, is revoked or terminated; or
- our relationship with one of our key technology goods or service providers terminates or requires a change in the way we provide the software or other technology as part of the services; or
- you fail to make payment of any fee due in terms of this agreement.

You may submit a cancellation request to us. Only the account owner, or a user nominated by the account owner may submit a cancellation request via the account management page.

## 19. Effect of termination

### 19.1. Data deletion

On the deactivation, cancellation or deletion of your account:

- this agreement will terminate;
- your access rights will immediately cease to exist; and
- all your data (including forms, users, submissions, resources, reports and cases) will be erased.

### 19.2. Post termination assistance

- Following our termination of the services, you will be entitled to take advantage of any post-termination assistance that we may generally make available with respect to the services (such as data retrieval arrangements).
- We endeavour to provide you with post-termination assistance, but we will not be under an obligation to do so.
- Your right to take advantage of any such assistance, whether generally made available with respect to the service, or made available uniquely to you, will depend on your acceptance of and compliance with any additional fees and terms that we may impose for such assistance.
- If you terminate the services, then you must ensure that you have downloaded your data prior to the effective date of the termination.