



**RETURN TO BASE AGREEMENT
PLAN (SAP0002)**

This Return to Base Service Agreement Plan (the "*Agreement*") dated from the invoice date (the "*Start Date*") of the *Product* as listed on the Sales Order connected to this agreement.

Between the "*Client*" and the "*Service Provider*" as stated on the invoice. Collectively referred to as the "*Parties*"

Agreement Number S2"+ Sales Order number"
(the "*Agreement Number*" issued by Label Power)

RECITALS

The *Client* wishes to be provided with the Services (defined below) by the *Service Provider* and the *Service Provider* agrees to provide the Services to the *Client* on the terms and conditions of this Agreement.

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1. Key Terms

1.1 Services

Label Power (as the *Service Provider*) agrees to provide, and *Client* agrees to accept the *Agreement* selected by the *Client* in regard to the *Product*. The services provided will be billed in advance.

1.2 Delivery of the Services

- a. **Start date:** The *Service Provider* shall commence the provision of the *Services* on the *Start Date*.
- b. **Completion date:** The *Service Provider* shall cease to provide the services *Three Years* from the *Start Date*.
- c. **Services:** The *Service Provider* and *Client* agrees to the following set out below:
 - i. Return-to-Base servicing and repair of the *Product* included in this agreement including Parts (excluding consumables) and Labour if within the first 12 months from the Date of Purchase but excluding all freight charges to *Service Provider*;
 - ii. Return-to-Base servicing and repair of the *Product* included in this agreement + Parts + all Freight to / from for the second and subsequent year from the Date of Purchase;
 - iii. Remote Support requests using Team Viewer software. *Client* must have the latest version installed.

1.3a Service Provider Requirements

- a. Provide the *Client* with an *Agreement Number* upon signing this *Agreement*.
- b. Provide a priority response within 4 *Business Hours* with a maximum response of within 16 *Business Hours* via email or phone.
- c. At the *Service Providers* request, escalate suitable tickets to remote into the *Clients'* PC via Team Viewer software.
- d. Will maintain the help desk system and provide alternative methods if the system is down.
- e. Repairs and Servicing will be conducted at 6 Colebard St West, Archerfield, Qld 4018;
- f. If deemed acceptable by the *Service Provider* provide repairs and servicing onsite at the *Clients* address. Additional Call out charges may apply to onsite call outs.

1.3b Client Requirements

- a. Will log all support requests, emailing help@labelpower.com.au with the *Agreement Number* in the subject line and the issue with any samples attached in the email.
- b. Check that emails can be receive from help@labelpower.com.au & help@labelpower.on.spiceworks.com
- c. Provide the *Service Provider* will all the information and samples if requested.
- d. Organize and freight *Product* to the *Service Providers* address.
- e. Is responsible for *Product* packaging. We always recommend you use the packaging that came with the *Product*. A fee may apply to *Product* incorrectly packed.
- f. Is responsible for return freight charges for second and subsequent years.
- g. Install the latest Team Viewer software from the website if needed to allow remote access into the *Clients* PC.
- h. Provide Administrator security rights access to the PC if need by the *Service Provider*.
- i. The *Client* is to organize 6 monthly Preventative Service Maintenance of the *Product* with the Provider to maintain this agreement.

1.4 Price

- a. As consideration for the provision of the Services by the *Service Provider*, the price for the provision of the Services ("*Price*").
- b. The *Client* shall pay for the *Service Provider's* out-of-pocket expenses if applicable for onsite servicing at the *Client* address comprising of:
 - i. Travel
 - ii. Accommodation if required.
- c. Any physical damage to the *Product* is only covered under this agreement at the *Service Providers* consideration and agreement in writing. Damage done to the *Product* will normally be charged at the standard Servicing Rate current set at \$150.00 / hour

2. General terms

2.1 Intellectual Property Rights

The *Service Provider* agrees to grant to the *Client* a non-exclusive, irrevocable, royalty free licence to use, copy and modify any elements of the Material not specifically created for the *Client* as part of the Services. In respect of the Material specifically created for the *Client* as part of the Services, the *Service Provider* assigns the full title guarantee to the *Client* and any all of the copyright, other intellectual property rights and any other data or material used or subsisting in the Material whether finished or unfinished. If any third party intellectual property rights are used in the Material the *Service Provider* shall ensure that it has secured all necessary consents and approvals to use such third party intellectual property rights for the *Service Provider* and the *Client*. For the purposes of this Clause 2.1, "Material" shall mean the materials, in whatever form, used by the *Service Provider* to provide the Services and the *Product*, products, systems, programs or processes, in whatever form, produced by the *Service Provider* pursuant to this Agreement.

2.2 Warranty

- a. The *Service Provider* represents and warrants that:
 - i. it will perform the Services with reasonable care and skill; and
 - ii. The Services and the Materials provided by the *Service Provider* to the *Client* under this Agreement will not infringe or violate any intellectual property rights or other right of any third party.
 - iii. This agreement is separate from the *Product* Warranty.

2.3 Limitation of liability

- a. Subject to the *Client's* obligation to pay the *Price* to the *Service Provider*, either party's liability in contract, tort or otherwise (including negligence) arising directly out of or in connection with this *Agreement* or the performance or observance of its obligations under this Agreement and every applicable part of it shall be limited in aggregate to the *Price*.
- b. To the extent it is lawful to exclude the following heads of loss and subject to the *Client's* obligation to pay the *Price*, in no event shall either party be liable for any loss of profits, goodwill, loss of business, loss of data or any other indirect or consequential loss or damage whatsoever.
- c. Nothing in this Clause 2.3 will serve to limit or exclude either Party's liability for death or personal injury arising from its own negligence.

2.4 Term and Termination

- a. This Agreement shall be effective on the date hereof and shall continue, unless terminated sooner in accordance with Clause 2.4(b), until the *Completion Date*.
- b. Either *Party* may terminate this Agreement upon notice in writing if:
 - i. the other is in breach of any material obligation contained in this Agreement, which is not remedied (if the same is capable of being remedied) within 30 days of written notice from the other *Party* so to do; or
 - ii. a voluntary arrangement is approved, a bankruptcy or an administration order is made or a receiver or administrative receiver is appointed over any of the other *Party's* assets or an undertaking or a resolution or petition to wind up the other *Party* is passed or presented (other than for the purposes of amalgamation or reconstruction) or any analogous procedure in the country of incorporation of either party or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order in respect of the other *Party*.
- c. Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either *Party* nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- d. The *Agreement* is only valid for the *Product* as detailed on this *Agreement*. It does not cover software or operating system issues.
- e. Training is not covered under this *Agreement*.
- f. *Products* which are installed on a different operating system to which the *Product* manufacture has listed on the specification datasheet are not supported by this *Agreement*.
- g. Loan printers are not covered under this *Agreement*.
- h. This agreement is non-transferable.

2.5 Relationship of the *Parties*

The *Parties* acknowledge and agree that the Services performed by the *Service Provider*, its employees, agents or sub-contractors shall be as an independent contractor and that nothing in this Agreement shall be deemed to constitute a partnership, joint venture, agency relationship or otherwise between the *Parties*.

2.6 Confidentiality

Neither *Party* will use, copy, adapt, alter or part with possession of any information of the other which is disclosed or otherwise comes into its possession under or in relation to this Agreement and which is of a confidential nature. This obligation will not apply to information which the recipient can prove was in its possession at the date it was received or obtained or which the recipient obtains from some other person with good legal title to it or which is in or comes into the public domain otherwise than through the default or negligence of the recipient or which is independently developed by or for the recipient.

2.7 Notices

Any notice which may be given by a *Party* under this Agreement shall be deemed to have been duly delivered if delivered by hand, first class post or electronic mail to the address of the other *Party* as specified in this *Agreement* or any other address notified in writing to the other *Party*. Subject to any applicable local law provisions to the contrary, any such communication shall be deemed to have been made to the other *Party*, if delivered by:

- a. Priority post, 2 days from the date of posting;
- b. hand on the date of such delivery or transmission; and
- c. Electronic mail, when the *Party* sending such communication receives confirmation of such delivery by electronic mail.

2.8 Miscellaneous

- a. The failure of either *party* to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights.
- b. If any part, term or provision of this Agreement is held to be illegal or unenforceable neither the validity nor enforceability of the remainder of this Agreement shall be affected.
- c. Neither *Party* shall assign or transfer all or any part of its rights under this Agreement without the consent of the other *Party*.
- d. This Agreement may not be amended for any other reason without the prior written agreement of both *Parties*.
- e. This Agreement constitutes the entire understanding between the *Parties* relating to the subject matter hereof unless any representation or warranty made about this Agreement was made fraudulently and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto.
- f. Neither *Party* shall be liable for failure to perform or delay in performing any obligation under this Agreement if the failure or delay is caused by any circumstances beyond its reasonable control, including but not limited to acts of god, war, civil commotion or industrial dispute. If such delay or failure continues for at least 7 days, the Party not affected by such delay or failure shall be entitled to terminate this Agreement by notice in writing to the other.
- g. This Clause 2.8(g) and Clauses 2.3, 2.5, 2.6, 2.7 and 2.8 of this Agreement shall survive any termination or expiration.
- h. This Agreement shall be governed by the laws of the jurisdiction in which the *Client* is located (or if the *Client* is based in more than one country, the country in which its headquarters are located) (the "Territory") and the *Parties* agree to submit disputes arising out of or in connection with this Agreement to the non-exclusive of the courts in the Territory.

3. Service Level Management

- a. All support requests will be created by the *Client* by emailing the ticket system help@labelpower.com.au
- b. Ticket System: Monitored 8:30 A.M. to 4:30 P.M. Monday – Friday (AEST) excluding Public Holidays in Brisbane QLD and during any closer at the *Service Provider* office. (the "Business Hours" or "Monitored Hours")
- c. Requests received outside of *Business Hours* will be collected and an automatic reply set, however no action may be taken until *Business Hours* resumes.

4. Amendments to existing clauses

Clause(s) [*insert amended clause reference(s) here*] shall be amended to read as follows: Not Applicable