

**Document Number**      **Revision**  
SEN0001                      3.0

**Prepared By**  
NB

**Approved By**  
NGB

**Title**  
Senquip Terms of Service

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# SENQUIP TERMS OF SERVICE

Revision	Date	Change
1.0	13 February 2019	First release
2.0	3 June 2022	Updated to include hosted services
3.0	13 October 2023	Major update

IN THE ABSENCE OF A CUSTOM SERVICES AGREEMENT, THIS SENQUIP TERMS OF SERVICE(S) AGREEMENT (“AGREEMENT”) GOVERNS USE OF SENQUIP SERVICES (“SERVICES”) IN ACCORDANCE WITH TERMS SET FORTH BELOW. BY SIGNING UP FOR SERVICES BY EMAIL AND WITH A SENQUIP REGISTERED USERNAME, YOU (“USER”) AGREE TO THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THIS AGREEMENT IN WHICH CASE THE TERMS “YOU,” “USER”, OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICE(S).

You may not use the Services if You are a Senquip direct competitor, except with Senquip prior written consent. In addition, You may not access the Online Services, under any circumstances, for the purposes of monitoring its availability, performance, or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on October 13th, 2023. It is effective between You and Senquip as of the date of Your acceptance of this Agreement and during each instance of Service use.

## 1. Acceptance of the Terms and Conditions of Service

Welcome to Senquip! (a.k.a. "We" or "Us" or the "Company"). We are excited to have You as a user and member of our community. The following terms and conditions (collectively, these "Terms and Conditions of Service") apply to Your use of Senquip.com, including any content, functionality and service(s) offered on or via Senquip.com (the "Website" or the "Site"). These Terms of Service(s) also include Senquip Privacy Policy.

We want to keep our relationship with You as lean and informal as possible, but please read these Terms of Service(s) carefully before You start using Senquip, because by using the Website You accept and agree to be bound and abide by these Terms of Service(s), including our Privacy Policy. Should You disagree with some of the provisions herein, You may either leave the Website or contact us at support@senquip.com. We're happy to hear Your comments and suggestions.

## 2. Definition of Confidential Information

As used herein, “Confidential Information” means all confidential information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include Our Online Services; and Confidential Information of each party shall include the terms and conditions of this Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, and

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business processes disclosed by such party. However, Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) is received from a third party without breach of any obligation owed to the Disclosing Party; or (iv) was independently developed by the Receiving Party.

### 3. Protection of Confidential Information

Except as otherwise permitted in writing by the Disclosing Party: (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors, licensees, and agents who need such access for purposes consistent with this Agreement.

### 4. Compelled Disclosure

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

### 5. User Responsibilities

Users shall not: (i) permit any third party to access the Online Services except as permitted herein; (ii) create derivative works based on the Online Services; (iii) copy, frame, or mirror any part or content of the Online Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes; (iv) reverse engineer the Online Services; (v) access the Online Services in order to build a competitive product or service or to copy any features, functions, or graphics of the Online Services; (vi) use the Online Services to store or transmit infringing, libelous, or otherwise unlawful or tortuous material, or to store or transmit material in violation of third-party privacy rights; (vii) use the Online Services to store or transmit malicious code or malware, or to engage in phishing or other fraudulent activity; (viii) interfere with or disrupt the integrity or performance of the Online Services or third-party data contained therein; or (ix) attempt to gain unauthorised access to the Online Services, Our systems, Our data, or networks.

User shall: (i) be responsible for Your compliance with this Agreement; (ii) be solely responsible for the accuracy, quality, integrity, and legality of and for the means by which You acquired Your Data and Your Application Resources; (iii) use commercially reasonable efforts to prevent unauthorised access to or use of the Online Services and notify Senquip promptly of any such unauthorised access or use; (iv) use the Online Services only in accordance with applicable laws and government regulations; and (v) provide Senquip with complete and accurate contact information.

### 6. Ownership and Licensing

Subject to the limited rights expressly granted hereunder, Senquip reserves all rights, title, and interest in and to Our Online Services and other Proprietary Software, including all related intellectual property rights subsisting therein. We grant no rights to You hereunder other than as expressly set forth herein.

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**What Senquip Licenses to Users:** Senquip grants You a worldwide license during the term of this Agreement to use the Services to manage Your Devices and collect and view Your Data.

**What You License to Senquip:** You grant us a worldwide license to use, reproduce, transmit, display, and adapt Your Data and Your Application Resources solely as necessary for Senquip to provide the Online Services in accordance with this Agreement.

You grant us a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into our Online Services any suggestions, enhancement requests, recommendations, or other feedback provided by You relating to the Online Services.

**Property Rights Retained by Senquip:** You acknowledge that Senquip may incorporate certain computer code, methods, inventions, concepts, and know-how into any source code, compiled code, custom software, or other programming or design work delivered by Senquip to You (“Deliverables”) that were not or will not be created solely for use in or with such Deliverables. You acknowledge that such code, methods, inventions, concepts, and know-how will not become Your property, and that the rights therein are part of Senquip stock in trade and general know how that will remain Senquip sole and unencumbered property, without any claim of Yours thereto, other than a perpetual paid-up license to use the same as incorporated in, and only as incorporated in, the Deliverables or any derivatives thereof.

## 7. Proprietary Software

You expressly acknowledge that existing proprietary software of Senquip and software of third parties, which is provided by Senquip for use in conjunction with any Deliverables (including subsequent versions of proprietary software of Ours, or third-party software, and enhancements thereof provided by Senquip), is and will remain the sole and exclusive property of Senquip or such third parties, subject only to Your rights pursuant to license agreement(s) for such software.

## 8. Privacy Policy

Senquip collects and manages Personal Information according to the following key points of the Senquip Privacy Policy. The Privacy Policy document is part of Senquip Terms of Service, and by using Senquip.com (the “Site”) or Services, You agree to the terms of this Privacy Policy and the Terms of Service.

If You visit the Site or are subscribed to and use our Service, the Service will collect information that relates to Your use of the Service and may be utilised by Senquip or 3rd party Service Providers including but not limited to providers of hosting services, email marketing platforms, payment processors, and security/fraud prevention companies submitted through the Site. These Service Providers may have access to Your Personal Information for the limited purpose of providing the services we have contracted with them to provide.

Senquip may collect some, all, or none of the following information:

- Name, address, telephone number, business name, and email address
- Log-in credentials if You create an account.
- Information about purchases or other transactions with us.
- Information about Your customer service and technical support interactions with us.
- Any other information You choose to provide to us in connection with Your use of the Service.

Senquip takes the privacy and confidentiality of Personal Information seriously and will store said data securely with renowned cloud providers such as, AWS and Microsoft, and will employ industry standard techniques to protect against unauthorised access of information.

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Senquip does not share Personal Information without Your consent, unless:

- Doing so is appropriate to carry out Your own request;
- Senquip believes it's needed to enforce our Terms and Conditions of Service, or it is legally required;
- we believe it's needed to detect, prevent or address fraud, security or technical issues;
- otherwise protect our property, legal rights, or that of others.

By visiting the Site or using the Service, You consent to the collection, transfer, processing, disclosure, and other uses of Your Personal Information described in this Privacy Policy.

**Changes in Privacy Policy:** Senquip may amend this Privacy Policy at any time. Use of information Senquip collects is subject to the Privacy Policy in effect at the time such information is used or received by the Website. If Senquip makes any major changes to the manor or process of collecting or using information, Senquip will notify User by posting an announcement on the Website or sending User an email. A user is bound by any changes to the Privacy Policy when he or she uses the Services after such changes have been first posted.

The Privacy Policy in its entirety may be found [here](#).

## 9. Relationship to the Parties

Senquip and User are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. Users are in no way authorised to make any license, contract, agreement, warranty, or representation on behalf of Senquip, nor to create any obligations, expressed or implied, on behalf of Senquip except to the extent and for the purposes expressly provided for and set forth herein.

## 10. Communicating with Senquip

Senquip may contact a User, by email or other means provided by the User. For example, Senquip may send promotional emails relating to Senquip or its Partners or communicate with Users about his/her use of the Website. Senquip may also use technology to alert Senquip via a confirmation email when You open an email from us. Users can modify the Website email notification preferences by clicking the appropriate link included in the footer of email notifications. Communication with Senquip may be terminated by Senquip or the User at any time and without cause.

## 11. Warranties

Other than any express warranties or service level agreements made in subsequent paragraphs in this section, Senquip make no warranties of any kind, whether implied statutory, or otherwise, and we specifically disclaim all implied warranties, including any warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by applicable law. In addition, Senquip makes no warranties regarding any third-party software or products provided. Without limiting the generality of the foregoing, we do not represent or warrant that Your use of the Online Services will meet Your requirements or that You use of the Online Services will be uninterrupted, timely, secure, or free from error.

## 12. Force Majeure:

Senquip is not liable for any loss, damage or liability associated with:

- a) the acts of Government;
- b) atmospheric and heliospheric events;
- c) military actions, including war and terrorism;

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- d) floods, storms, earthquakes or other natural occurrences; or,
- e) late deliveries due to the courier / postal networks;
- f) epidemics and pandemics;
- g) events beyond the control of Senquip.

### **13.Limitations to Liability**

Except for breaches of confidentiality and indemnification obligations in section: Indemnity below, each party hereto: (I) expressly waives any and all claims against the other for consequential, incidental, or special damages (including, without limitation, claims for lost profit, revenues, data, or interruptions in service) arising out of or related to the provisions of any services or work product pursuant to this agreement; and (II) expressly agrees the maximum liability for Senquip with respect to any claim related to this agreement or the Services hereunder will be limited to the lesser of the amount of fee received by Senquip for Services in the preceding 6 months, or \$1,500.

### **14.Indemnity**

Each party will Indemnify, defend, and hold the other harmless from any against any and all claims, damages, and the expenses (including reasonable attorneys' fees and cost of litigation) by any third party resulting from any acts or omissions of the Indemnifying party relating to its activities in the connection with this agreement, their breach of this agreement, or their misrepresentations relating to the other party, the services, or this agreement, regardless of the form of action.

### **15.Term & Termination**

This Agreement commences on the date User accepts it and continues until terminated by either party in accordance with this Agreement. Upon any termination of a User subscription to the Online Services, this Agreement shall also terminate, subject to the Surviving Provisions.

Upon any termination of Your subscription to the online services, Your information and other materials developed by You using the online services may be permanently lost.

### **16.Online Service Termination**

You may terminate Your subscription to the Online Services without cause at any time upon written request to Senquip. Such requests shall be deemed accepted by a written response verifying Senquip received and acknowledged.

We may terminate Your subscription to the Online Services at any time without cause upon 30 days' written notice to You, or automatically if You fail to comply with any term or condition of this Agreement.

In the event of termination, any fees unpaid and outstanding are to be settled and paid to Senquip within 30 days of agreement termination.

### **17.Surviving Provisions**

The following sections shall survive any termination or expiration of this agreement: Property Rights Retained by Senquip, Our Proprietary Software, Warranties, Limitation of Liability, Indemnity, and General Provisions.

### **18.Changes to Online Service**

As part of the normal process of operating and updating the Online Services, We reserve the right at any time and from time to time to enhance, amend, or modify the features of the Online Services (or any part thereof) with or without notice. Notwithstanding the foregoing, We will use commercially reasonable efforts to notify User in writing of any major change to the Service that is known to have a substantially negative material impact to You.

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## 19. Fees

The Services being subscribed to, and their associated fees and engagement levels, are described at [portal.senquip.com](https://portal.senquip.com).

## 20. Online Service

The Online Services that are billed are non-refundable. There are no refunds or credits for partial months of service, plan downgrades, or refunds for months unused. You are responsible for paying all charges in accordance with the use of the Online Services associated with Your Data and Your Application Resources, even if You did not use or authorise the use of the Online Services. If You cancel Your subscription to the Online Services before the end of the current period, User cancellation will take effect immediately and You will not be charged again with exception only that You shall be responsible for all charges already incurred or rendered from Services.

## 21. Fee Changes

We reserve the right to annually change our Fees (“Fee Changes”) for all Services, including but not limited to subscription plan fees to the Online Services, upon 30 days’ notice via posting a notification on the website or by email from Senquip.

Any opposition or objection of a Fee Change is to be submitted to Senquip in writing at [support@senquip.com](mailto:support@senquip.com) within 90 days of receipt of notifying communication from Senquip to User or receipt of first invoice containing Fee Change, whichever is to happen sooner. Each fee objection will be addressed individually by Senquip on a case-by-case basis and dealt with discretion and respect to User and the terms herein.

## 22. Taxes

User will pay any and all applicable taxes, however designated, incurred as a result of or otherwise in connection with this Agreement or the Services, excluding taxes based on Our net income.

## 23. Minors and Children

Minors and children are not advised to not use Senquip without parental consent. By using the Website, users represent that they have the legal capacity to enter into this binding agreement, regardless of age and authority.

## 24. General Provisions

**Notices:** Any notice to be given under this Agreement will be sufficient if in writing electronically or physical and sent by email, certified or registered mail or delivered by courier to the addresses set forth at the beginning of this Agreement. A party’s address, digital or otherwise, or designee for purposes of any notices may be changed by written notice to the other party.

**Entire Agreement:** This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals, or representations, either written or oral, concerning its subject matter.

**Governing law:** This Agreement, and any disputes arising out of or related hereto, shall be governed exclusively by the internal laws of the State of New South Wales, Australia.

**Assignment:** Neither party may assign any interest in this Agreement or any of its duties or rights under this Agreement without the prior written consent of the other except that: (i) each party may assign its rights and obligations to an Affiliate of such party upon advance written notice to the other; and (ii) either party may assign its rights and obligations upon advance notice to the other in connection with any merger, acquisition, or sale of all or substantially all of its assets.

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## 25. Agreement Definitions

**“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**“Device Data”** means all electronic data or information submitted by Devices owned by You, to the Online Services.

**“Devices”** means telemetry devices including the Senquip ORB, Senquip QUAD and other devices that submit Device Data to the Online Services.

**“Online Services”** means the online services provided by Senquip as described in this Agreement that You manage at: Senquip.com.

**“Permissions”** means permissions granted to individuals or entities to access a Device or Device Data using the Online Services.

**“Personal Information”** is defined as information or an opinion about an identified individual, or an individual who is reasonably identifiable.

**“Proprietary Software”** means the software that is developed, licensed, or purchased by Senquip, and includes our Online Services in entirety and other software that can be deployed onto embedded systems, computers, handheld systems, and servers.

**“Services”** means Online Services and when requested, contracted, and agreed upon accommodating development operations to Senquip services as extension of services provided by Us.

**“We,” “Us,” “Our,” “Company” or “Senquip,”** means Senquip Pty Ltd, a Liability Corporation with a place of business at Unit 3, 29 Shearwater Drive, Taylors Beach, NSW, 2317, Australia.

**“You,” “Your,” or “User”** means: (i) the company or other legal entity for which You are accepting this Agreement and Affiliates of that company or entity; or (ii) an individual, in the case of a non-legal entity as defined in the registration information provided to Us.

**“Your Application Resources”** means a web, server, personal computer, or handheld application and related configuration parameters, that We, You, and/or a third party acting on Your behalf create and that interoperates with the Services.

**“Your Data”** means all electronic data or information submitted by You, or by Devices owned by You or Your Customers or Your Partners, to the Online Services.

**“Your Users”** means individuals and entities that have Permissions for Your Devices or Your Device Data.