TERMS AND CONDITIONS FOR SOFTWARE ONLY (FORM 1B)

These terms and conditions (**Standard Terms**) govern the sale and use of Emesent's software and, together with the Quote and purchase order, form a legally binding agreement (**Agreement**) between you (**You, Your**) and Emesent (**Emesent, We, Our or Us**).

1. Agreement

1.1 By submitting a purchase order to Emesent, otherwise purchasing, or using Emesent software, You agree to be bound by these Standard Terms and any agreements and policies referenced herein.

1.2 These Standard Terms take precedence over any terms and conditions proposed, provided, or referenced by You, whether in a purchase order, Quote, correspondence, or any other document, unless expressly agreed to in writing by Emesent. In the event of any inconsistency or conflict between the agreements governing Your purchase or use of Emesent Software, the order of precedence will be as follows:

(a) Standard Terms

(b) Emesent Standard Warranty

(c) Quote (if applicable)

(d) Purchase Order

(e) Any other referenced agreements or policies.

Any terms and conditions not expressly included in the agreements listed above shall have no force or effect.

1.3 Notwithstanding clause 1.2, You acknowledge that:

(a) We may amend the payment terms in relation to the Software at Our discretion in accordance with clause 12, and

(b) the replacement payment terms will take precedence over any previous payment terms advised or agreed in relation to the products and/or services from the time Emesent provide notice of the replacement payment terms.

1.4 Emesent may update, modify or amend the Standard Terms at any time. Any change will take effect on the date specified in the updated terms. Emesent will notify You of any material changes to these Standard Terms by posting the updated version on Our website or by other reasonable means. Your continued use of the Software after such changes take effect constitutes Your acceptance of the revised Standard Terms.

2. Purchase and delivery of the Software

2.1 Subject to clause 2.2, Emesent will provide You with specified software (Software).

2.2 You will comply with all Your obligations under this Agreement, and any agreement or policy referenced in this Agreement, including the payment of all agreed fees, charges and other amounts.

2.3 Emesent may withhold delivery of, or suspend access to, Software until the later of:

(a) the advised delivery time,

(b) Emesent receiving payment of all agreed fees, charges and amounts owed by You to Emesent,

(c) You, and Your Personnel, completing all mandatory training and/or signing the required documentation including the EULA, where applicable,

(d) Emesent receiving required information from You necessary for Us to deliver the Software to You, where applicable.

2.4 You agree that the Agreement, and Your obligations under the Agreement create a registrable security interest in favour of Us, and You consent to the security interest (and any other registrable interest created in connection with this Agreement) being registered on any relevant securities register (and You must do all things to enable Us to do so).

2.5 This clause 2 will survive termination or expiry of this Agreement.

3. Training

3.1 You agree that if mandatory training required to use Software, You and Your Personnel, must complete the training prior to commencing use of the applicable Software.

3.2 You acknowledge and agree that:

(a) Emesent will provide any training.

(b) You will pay for the training at the agreed rate, including payment for Our reasonable expenses.

(c) Emesent will provide You with written confirmation on completion of the training.

(d) If You commence usage of the applicable Software prior to receipt of the completion confirmation from Emesent, then Emesent may void any applicable warranty.

4. Warranty

4.1 You agree and acknowledge that the Emesent standard warranty, set out in Standard Warranty (Form 2) does not apply to the Software.

4.2 Nothing in this Agreement is intended to remove, reduce or impede on Your rights under statutory rights You may be entitled to under law, including the Australian Consumer Law or equivalent laws in other jurisdictions.

5. Advanced Software Licences

5.1 You acknowledge and agree that this Agreement applies to Advanced Software only and does not relate to Foundational Operating Software.

5.2 Subject to You:

(a) purchasing a Software Subscription or a Perpetual License,

(b) complying fully with this Agreement, and any other agreement required by Emesent, including the EULA, and

(c) payment of the applicable subscription fees,

Emesent grant You a non-exclusive, non-transferable, revocable licence to use the Advanced Software as identified in the Quote or otherwise confirmed by Emesent in writing.

5.3 The price, term, and payment terms of any Software Subscription or Perpetual License will be set out in the Quote or otherwise advised by Emesent in writing.

5.4 You may purchase additional licences for additional users, subject to payment of the applicable fees and satisfaction of the terms of this Agreement.

5.5 If You fail to pay the applicable fees when due or breach any term of this Agreement (including the terms of the EULA), Emesent may terminate or suspend Your access to the Advanced Software.

5.6 Each Perpetual License and Software Subscription is solely and exclusively for use on the specified Licensed Unit. You acknowledge and agree that:

(a) You must not install, reproduce or use the Software under a Perpetual License or Software Subscription on any other device.

(b) Each unit requires a separate license or subscription and payment of the applicable fee.

(c) If you copy, reproduce, or transfer a Perpetual License and/or Software Subscription on a device other than the specified Licensed Unit, We may suspend or terminate that Perpetual License and/or Software Subscription, and any other Perpetual License and/or Software Subscription held by You.

(d) We preserve all other rights and remedies under this Agreement.

6. Use of the Software

6.1 You acknowledge and agree that:

(a) You are responsible for the conduct of any user authorised by You to use the Software (Authorised User),

(b) Emesent may refuse, or remove, access to any Authorised User at Our absolute discretion.

(c) You and any Authorised User must sign the End User Licence Agreement (EULA) prior to use of the Software and any time prompted or requested by Emesent.

(d) For avoidance of doubt, You will comply with all of the terms of the EULA.

(e) You are liable for all the actions of any person that access the Software under the licence issued to You by Emesent, regardless of whether they are an Authorised User or have signed the EULA.

(f) You and Your users shall not use the Software for any purpose other than in connection with the intended and agreed use.

(g) Emesent may update, modify or amend the EULA in relation to any software provided by Us at any time. Any change will take effect on the date specified in the updated terms. Emesent will notify You of any material changes to the EULA by posting the updated version on Our website or by other reasonable means. Your continued use of the Software after such changes take effect constitutes Your acceptance of the revised EULA.

(h) Emesent may suspend access to the Software at any time if it reasonably suspects that You, an Authorised User or any person that access the Software under the licence issued to You by Emesent, has or will misuse the Software, including without limitation committing any breach of the EULA or this Agreement.

(i) to indemnify, defend, and hold Emesent harmless from and against any claims, liabilities, damages, costs, or expenses (including legal fees) arising from You or any Authorised User's use of the Software.

6.2 You must not (and must ensure that any Authorised Users do not) access or use the Software except as permitted by the terms of this Agreement, and You must not and must ensure that any other person (including an Authorised User) does not:

(a) use the Software in any way that breaches any applicable laws or infringes any person's rights, including Intellectual Property Rights (and privacy rights),

(b) use the Software in any way that damages, interferes with or interrupts the supply of the Software,

(c) introduce malicious programs into Our hardware and software or systems, including viruses or malware through any channel,

(d) use the Software to carry out security breaches or disruptions of a network, including accessing data where You are not the intended recipient or logging into a server or account that You are not expressly authorised to access or corrupting any data (including network sniffing/monitoring, pinged floods, packet spoofing, denial of service and forged routing information for malicious purposes),

(e) use any program/script/command, or send messages of any kind, with the intent to interfere with, or disable, any person's use of the Software,

(f) use the Software circumvent user authentication or security of any of Our networks, accounts or hosts or those of members or suppliers, and

(g) if applicable, send any form of harassment via email, or any other form of messaging, whether through language, frequency, or size of messages, or use the Software in breach of any person's privacy (such as by way of identity theft or "phishing").

7. Prohibited Uses: Autonomous Lethal Targeting

7.1 Without limitation to clause 6.2, You must not and must ensure that any other person (including an Authorised User) does not use the Software (including any autonomy, perception, mapping, or analytics capabilities) to:

(a) select or engage targets with lethal or other kinetic force without a high degree of human judgment and control, and/or

(b) function as the primary or exclusive targeting, firing, or weapons release system in any autonomous lethal weapon.

7.2 For the avoidance of doubt, the Software is intended to provide mapping, navigation, and decision support only and are not to be used in autonomous lethal targeting systems or as the final tool for deciding whether to use lethal force.

8. Support, Maintenance & Upgrades

8.1 Your sole entitlement to receive Support, Maintenance & Upgrades is conditional on You maintaining:

(a) an Active Software Subscription; or

(b) A valid Perpetual License together with an active Support Subscription.

8.2 If Your Software Subscription lapses, expires or is terminated for any reason, We have no obligation to provide Support, Maintenance or Upgrades, under this clause 8 or otherwise, from the date of lapse.

8.3 Subject to clauses 8.1 and 8.2:

(a) Support: We will provide online helpdesk support to the Authorised User of applicable Emesent products in accordance with Our policy and procedure available on Our website. Support for Third Party Inputs is excluded. Any support or assistance that is not strictly described in this clause 8.3 is out of scope and must be requested as an Additional Service. Support is contingent upon You:

(1) implementing Our instructions;

(2) allowing Us to perform Maintenance and/or Upgrades; and

(3) You using the Products and Services in accordance with this Agreement and any instructions provided by Us.

(b) Additional Service: You may request Additional Services, such as consultancy support, training, and maintenance, by providing written notice by email. Upon receiving Your request, We will prepare and provide a detailed scope of services, proposal, or statement of work, that will outline the specific services to be provided and any additional fees required. If You agree to the terms and conditions specified in the documentation, We will proceed to deliver the requested services in exchange for the payment of an additional fee. You acknowledge that all Additional Services are subject to the terms of this Agreement.

(c) Maintenance: We will endeavour to develop and make available to You fixes for reproducible defects in the Software, including corrective maintenance to fix bugs and preventive maintenance to prevent future problems.

(d) Upgrades: We will endeavour to develop and make available to You, new major releases and feature enhancements.

8.4 From time to time, We may, at our discretion, perform reasonable scheduled and emergency maintenance and updates in relation to the Software (Scheduled or Emergency Maintenance). You agree that access to, or the functionality of all or part of the Software, may be suspended for a time in order for Us to perform Scheduled or Emergency Maintenance. To the maximum extent permitted by law, We will not be liable, including for any direct, indirect or consequential loss, to You for any interruptions or downtime to the Subscription as a result of any Scheduled or Emergency Maintenance.

8.5 We will endeavour to provide You with reasonable notice, where possible, of any interruptions to access and availability of the Software.

8.6 You acknowledge and agree that We may make changes to the Software as part of any Support, Maintenance or Upgrade or Scheduled or Emergency Maintenance, provided those changes do not, in our reasonable opinion, substantially and adversely affect Your use and enjoyment of the Software.

8.7 Where We notify You of Support, Maintenance or Upgrade or Scheduled or Emergency Maintenance, You agree to follow Our directions and do all things reasonable to facilitate such updates within a reasonable time.

9. Third Party Inputs

9.1 You agree that:

(a) the Software may include third party inputs that interface, or interoperate with, the Software, and

(b) the provision of the Software may be contingent upon, or impacted by, such third party inputs.

9.2 To the extent that any third party inputs are required by Us in order to be able to provide the Software to You:

(a) we agree to obtain and maintain the required licences for access and use of any third party inputs (at no additional cost to you); and

(b) You agree to:

(1) adhere to the terms and conditions of any such third party input licences that are provided to You; and

(2) comply with Our reasonable instructions and directions.

9.3 You acknowledge and agree that the benefit of the third party input's interface, or interoperation with, the Software is subject to Your compliance with clause 9.2.

GENERAL TERMS

10. Our Obligations

10.1 We represent, warrant and agree that:

(a) We are properly constituted and have the right and authority to enter into this Agreement;

(b) We will provide the Software in accordance with all applicable laws; and

(c) We will use reasonable efforts to ensure all of Our obligations under this Agreement will be carried out by suitably competent and trained personnel in an efficient and professional manner.

10.2 We further agree that:

(a) We have legal authority to grant You the licences under this Agreement,

(b) all pre-existing Intellectual Property Rights in the Software (with the exception of the property rights in any third party inputs) are legally owned or held by Us, and

(c) the provision of the Software does not and will not infringe any other person's intellectual property rights.

11. Your Obligations

11.1 You agree:

(a) to comply with this Agreement, including any documents reference herein, Our reasonable requests or requirements, and all applicable laws,

(b) to provide all assistance, information, documentation, access, facilities, authorities, consents, licences and permissions reasonably necessary to enable

Us to comply with Our obligations under this Agreement or at law, in a timely manner;

(c) that You have reviewed and understand the terms of this Agreement, and any reference agreements or policies, Software in accordance with them; and

(d) that in entering into the agreement with Emesent, You have not relied upon any representation, warranty or inducement by Us nor is any representation, warranty or thing made or done by Us to be inferred, incorporated or implied into the Standard Terms.

11.2 You represent, warrant and agree that:

(a) You have the legal capacity to enter into this Agreement;

(b) there are no legal restrictions preventing You from entering into this Agreement or using the Software in the way You intend,

(c) all information and documentation that You provide to Us in connection with this Agreement is true, correct and complete,

(d) You have not relied on any representations or warranties made by Us in relation to any Software (including as to whether the Software are or will be fit or suitable for Your particular purposes), unless as expressly stipulated in this Agreement;

(e) You will report any accident or infringement which occurs in relation to the Software to Us, immediately after it occurs;

(f) You will not use the Software in breach of any laws or applicable manual;

(g) You use the Software and any associated programs and files at Your own risk;

(h) the technical processing and transmission of information and data, including Your data, may be transferred unencrypted and involves:

(1) transmissions over various networks; and

(2) changes to conform and adapt to technical requirements of connecting networks or devices;

(i) We may use third party service providers to integrate with the Software. If the providers of third-party applications or services cease to make their services or programs available on reasonable terms, We may cease providing any affected features without liability or entitling You to any refund, credit, or other compensation,

(j) the Software may use third party products, facilities or services. We do not make any warranty or representation in respect of the third-party products, facilities or services,

(k) We do not guarantee that any file or program available for download and/or execution from or via Software is free from viruses or other conditions which could damage or interfere with data, hardware or software with which it might be used;

(l) We are not responsible for the integrity or existence of any data on the Computing Environment, network or any device controlled by You, (Your Authorised Users) or Your personnel;

(m) We may pursue any available equitable or other remedy against You if You breach any provision of this Agreement;

(n) You are not Our contractor and You do not and We do not authorise You to perform services on Our behalf;

(o) the Software is provided to You solely for Your benefit and You will not (or You will not attempt to) disclose, or provide access to, Our software to third parties without Our prior written consent;

(p) any information, advice, material, work and services provided by Us under or produced in relation to this Agreement do not constitute legal, financial, merger, due diligence or risk management advice; and

(q) You are not and have not been the subject of an Insolvency Event.

12. Access

12.1 You agree to provide Us (and Our personnel) with reasonable access to any premises where the Software is located, and any other premises reasonably necessary for Us to provide services, free from harm or risk to health or safety at the times and on the dates requested by Us.

12.2 This clause 12 will survive termination and expiry of this Agreement.

13. Payment

13.1 You agree to pay Us:

(a) the agreed fees;

(b) all pre-approved charges and expenses; and

(c) any other amounts payable to Us under this Agreement,

in accordance with the payment terms.

13.2 The payment terms may be set out in the Quote or otherwise in writing. If the payment terms are not set out in the Quote, then You agree to pay Us all fees, charges, expenses and other amounts payable to Us in full prior to delivery of, or access to, the Software.

13.3 You agree that We may conduct credit or other checks and reviews, and amend the payments terms by notice to You at Our absolute discretion.

13.4 You agree that You will bear and pay all international transfer costs, fees and charges imposed by Your bank, payment processor or debit or credit card provider when making payment of any amount under this Agreement to Emesent.

13.5 If any payment is not made in accordance with the payment terms, the amount of that payment becomes a debt immediately due and payable to Us and We may (at Our absolute discretion):

(a) Immediately cease providing the Software, and recover, as a debt due and immediately payable from You, Our additional costs of doing so; and/or

(b) charge interest at a rate equal to the Reserve Bank of Australia's cash rate, from time to time, plus 5% per annum, calculated daily and compounding monthly, on any such amounts unpaid after the due date for payment in accordance with the payment terms.

13.6 If You rectify such non-payment within a reasonable time after suspension, then We may, at Our discretion, recommence the provision of the Software as soon as reasonably practicable.

13.7 To the maximum extent permitted by Law, the fees, charges, expenses and other amounts are non-refundable.

14. Intellectual Property

14.1 This clause 14 will survive termination or expiry of this Agreement.

14.2 The Parties agree that nothing in this Agreement constitutes a transfer or assignment of any Intellectual Property Rights.

14.3 You agree that We own all Intellectual Property Rights in Our Software and Our Materials and Feedback and these Intellectual Property Rights will at all times vest, or remain vested, in Us (or, if applicable, Our third-party service providers). To the extent that ownership of these Intellectual Property Rights does not automatically vest in Us, You agree to do all acts necessary or desirable to assure Our title to such rights.

14.4 In the use of any Intellectual Property Rights in connection with this Agreement, You agree that You must not (and You must ensure that Your personnel and Authorised Users do not) commit any Intellectual Property Breach.

14.5 You also agree that:

(a) we may use Feedback in any manner which We see fit (including to develop new features) and no benefit will be due to You as a result of any use by Us of any Feedback;

(b) You must not whether directly or indirectly, without Our prior written consent:

(1) copy, remove or alter proprietary notice placed on the Software;

(2) make any representations or warranties to any third parties that could be construed as being representations or warranties from Us in relation to the Software or any other matter;

(3) use the Software in any way that involves service bureau use, outsourcing, renting, reselling, sublicensing, concurrent use of a single user login, or time-sharing.

14.6 We agree that You own all Intellectual Property Rights in Your Materials.

14.7 You grant Us a non-exclusive, revocable, worldwide, non-sublicensable and non-transferable right and licence, for the duration of the Term, to use the Intellectual Property Rights in Your Materials solely for the purposes for which they were developed and for the performance of Our obligations under this Agreement, as contemplated by this Agreement.

14.8 If You or any of Your Personnel have any Moral Rights in any material provided, used or prepared in connection with this Agreement, You agree to (and agree to ensure that Your Personnel) consent to Our use or infringement of those Moral Rights.

14.9 As between You and us:

(a) all Customer Data is and remains Your property; and

(b) You retain any and all rights, title and interest in and to the Customer Data, including all copies, modifications, extensions and derivative works.

14.10 To the extent that We receive any Customer Data under or in connection with this Agreement, You grant Us a limited licence to copy, transmit, store and back-up or otherwise access the Customer Data during the Term (and for a reasonable period after the Term), to:

(a) supply the Software to You (including to enable You and Your Personnel to access and use the Software);

(b) diagnose problems with the Software;

(c) enhance and otherwise modify the Software; and

(d) develop other software, products and services (and for the purposes of case studies and analytics), provided We de-identify the Customer Data, and

as reasonably required to perform Our obligations under this Agreement.

14.11 You must, at all times, ensure the integrity of the Customer Data and that Your use of the Customer Data is compliant with all Laws.

14.12 You represent and warrant that:

(a) You have obtained all necessary rights, releases and permissions to provide all Customer Data to Us and to grant the rights granted to Us in this Agreement; and

(b) the Customer Data (and its transfer to and use by Us) as authorised by You, under this Agreement does not violate any Laws (including those relating to export control and electronic communications) or rights of any third party, including any Intellectual Property rights, rights of privacy, or rights of publicity.

14.13 We assume no responsibility or liability for the Customer Data. You are solely responsible for the Customer Data and the consequences of using, disclosing, storing or transmitting it.

15. Analytics

15.1 Despite anything to the contrary in this Agreement or elsewhere, We may monitor, analyse and compile information based on and/or related to Your use of the Software, in an aggregated and anonymised format (Analytics).

15.2 We and Our licensors own all right, title and interest in and to the Analytics and all related software, technology, documentation and content provided in connection with the Analytics, including all Intellectual Property Rights in the foregoing.

16. Privacy

16.1 You acknowledge and agree that Emesent and You are bound by Our Privacy Policy, which is available on Our website and on request.

16.2 This clause 16 will survive termination or expiry of this Agreement.

17. Confidential Information

17.1 Each Receiving Party agrees:

(a) not to disclose the Confidential Information of the Disclosing Party to any third party;

(b) to use all reasonable endeavours to protect the Confidential Information of the Disclosing Party from any unauthorised disclosure; and

(c) to only use the Confidential Information of the Disclosing Party for the purposes for which it was disclosed or provided by the Disclosing Party, and not for any other purpose.

17.2 The obligations in clause 17.1 do not apply to Confidential Information that:

(a) is required to be disclosed in order for the parties to comply with their obligations under this Agreement;

(b) is authorised to be disclosed by the Disclosing Party;

(c) is in the public domain and/or is no longer confidential, except as a result of a breach of this Agreement; or

(d) must be disclosed by Law or by a regulatory authority, including under subpoena.

17.3 Each Party agrees that monetary damages may not be an adequate remedy for a breach of this clause17. A party is entitled to seek an injunction, or any other remedy available at law or in equity, at its discretion, to protect itself from a breach (or continuing breach) of this clause17.

17.4 This clause 17 will survive termination or expiry of this Agreement.

18. Exclusions to Liability

18.1 Despite anything to the contrary, to the maximum extent permitted by law, We will not be liable for, and You waive and release Us from and against, any Liability caused or contributed to by, arising from or connected with:

(a) loss of, or damage to, any property or any injury to or loss to any person;

(b) Your or Your Personnel's acts or omissions;

(c) the Computing Environment;

(d) any use or application of the Software by a person or entity other than You (including any third party that You sublease, rent, sell or otherwise transfer the licence to), or other than as reasonably contemplated by this Agreement;

(e) any works, services, goods, materials or items which do not form part of the Software (as expressed in this Agreement), or which have not been provided by Us;

(f) any relocation, modification, configuration or reconfiguration of any Software by You;

(g) any third party Inputs; or

(h) any event outside of Our reasonable control (including a Force Majeure Event).

18.2 This clause 18 will survive the termination or expiry of this Agreement.

19. Limitations on Liability

19.1 Despite anything to the contrary, to the maximum extent permitted by law:

(a) neither Emesent nor You will be liable for Consequential Loss;

(b) the liability of either party for any Liability under this Agreement will be reduced proportionately to the extent the relevant Liability was caused or contributed to by its acts or omissions (or those of its personnel), and any failure to mitigate that liability; and

(c) our maximum aggregate liability arising from or in connection with this Agreement (including the Software) will be limited to, and must not exceed in the aggregate, for all claims, the value of the total Fees payable under this Agreement.

19.2 This clause 19 will survive the termination or expiry of this Agreement.

20. Indemnity

20.1 Despite anything to the contrary, to the maximum extent permitted by law, You are liable for and agree to indemnify, hold harmless, release and discharge, Us in respect of any liability which We may suffer, incur or are otherwise liable for as a result of, or in connection with:

(a) loss of, or damage to, any property or any injury to or loss to any person (including death);

(b) terms of this Agreement and Our directions;

(c) Your or Your personnel's acts or omissions; or

(d) Your or Your personnel's breach of this Agreement or any laws.

(e) Your or Your personnel's use of the Software or other goods or services provided by Emesent.

20.2 This clause 20 will survive the termination or expiry of this Agreement.

21. Termination

21.1 The Parties agree that this Agreement may only be terminated in accordance with this clause21.

21.2 Where Software is no longer able to be used by You for reasons other than a default by Us of this Agreement (including it has been stolen or destroyed), the Parties agree that either Party may terminate this Agreement with the consent of the other (such consent not to be unreasonably withheld).

21.3 This Agreement will terminate immediately upon written notice by:

(a) us, if:

(1) You (or any of Your personnel) breach any material term of this Agreement;

(2) You (or any of Your personnel) breach any provision of this Agreement and that breach has not been remedied within 20 Business Days of being notified by Us;

(3) You fail to provide Us with clear or timely instructions or information to enable Us to provide the Software;

(4) for any other reason outside Our control which has the effect of compromising Our ability to provide Software;

(5) You are unable to pay Your debts as they fall due; or

(6) You attempt to repudiate this Agreement early (including through repudiation); and

(b) You, if We are in breach of a material term of this Agreement, and that breach has not been remedied within 20 Business Days of being notified by You.

21.4 Upon expiry or termination of this Agreement:

(a) We will immediately cease providing access to the Software and the licence in this Agreement will immediately terminate.

(b) You agree to pay for all Software provided to You up to the date of termination or expiry (to the extent You have not done so already), including for Software which has been provided and have not yet been invoiced to You, and all other amounts due and payable under this Agreement, as a debt due and immediately payable;

(c) where termination has occurred pursuant to clauses 21.2 or 21.3(a)(1), (2), (3) or (6) You agree to pay Us the Cancellation Fee, as a debt due and immediately payable;

(d) each party agrees to, as soon as reasonably practicable, return to the other Party (where possible), or delete or destroy (where not possible to return), any of the other Party's property (including any Confidential Information and Intellectual Property); and

(e) 1 month after termination, We may at Our sole discretion anonymise or delete all Customer Data which We hold or control in relation to this Agreement.

21.5 We will retain Your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to this Agreement constitutes Your authority for Us to retain or destroy documents in accordance with the statutory periods, or on expiry or termination of this Agreement.

21.6 Termination of this Agreement will not affect any rights or liabilities that a Party has accrued under it.

21.7 This clause 21 will survive the termination or expiry of this Agreement.

22. Taxes

22.1 All prices quoted are exclusive of all local taxes, including but not limited to GST, VAT, Sales Tax and/or Withholding Tax.

22.2 Goods and services supplied to Australian residents or for use in Australia are subject to tax under the GST law.

22.3 If You provide assurances to Us that:

(a) You are a non-resident for Australian income tax purposes;

(b) You are not registered or required to be registered for GST purposes in Australia; and

(c) You require the goods and services solely for use in its business or operations outside of Australia,

we may rely upon such assurances and treat goods or services supplied to You under this Agreement as GST-free supplies under the GST law.

22.4 If goods or services supplied to You are subsequently classified as taxable because any of Your assurances were incorrect, You must reimburse Us on demand for the GST payable (including any interest, fine, penalty or other amount imposed upon Emesent for failing to collect the GST).

22.5 If any taxes, excises or duties are imposed then You:

(a) will bear and pay all deductions and withholdings of any taxes, excises or duties directly to the relevant authorities; and

(b) separately pay Us enough to ensure that We receive the full amount of the Fee on the due date.

22.6 You are responsible for obtaining any necessary import licences or permits and for paying any customs or import duties or taxes on such importation.

23. General

23.1 Amendment: This Agreement may only be amended by written instrument executed by the Parties.

23.2 Assignment: A party must not assign or deal with the whole or any part of its rights or obligations under this Agreement without the prior written consent of the other party (such consent is not to be unreasonably withheld).

23.3 Counterparts: This Agreement and any statement of work issued under it may be executed in any number of counterparts that together will form one instrument.

23.4 Disputes: If any dispute or claim (including any question regarding its existence, validity or termination) arises out of or in connection with this Agreement (Dispute), either Party may issue a notice to the other Party outlining the dispute or claim (Notice of Dispute). Within 14 days of a Notice of Dispute, senior representatives of the Parties must meet in good faith to resolve the Dispute by negotiation or such other means as they mutually agree. If the parties cannot agree how to resolve the Dispute at that initial meeting, either Party may:

(a) where the Parties are both located in Australia, refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, either Party may ask the Law Society of Queensland to appoint a mediator. The mediator will decide the time, place and rules for mediation. The Parties agree to attend the mediation in good faith, to seek to resolve the Dispute. The costs of the mediation will be shared equally between the Parties; and

(b) where either Party is located outside of Australia, refer the matter to arbitration administered by the Australian Centre for International Commercial Arbitration (ACICA), with such arbitration to be conducted in Brisbane, Queensland, in English and in accordance with the ACICA Arbitration Rules. The costs of the arbitration will be shared equally between the Parties and the determination of the arbitrator will be final and binding.

23.5 Email: You agree that We are able to send electronic mail to You and receive electronic mail from You. You release Us from any Liability You may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to Your system or any files by a transfer.

23.6 Entire agreement: This Agreement contains the entire understanding between the Parties, and supersedes all previous discussions, communications, negotiations, understandings, representations, warranties, commitments and agreements, in respect of its subject matter.

23.7 Force Majeure: We will not be liable for any delay or failure to perform Our obligations under this Agreement if such delay is due to any circumstance beyond Our reasonable control (including but not limited to epidemics, pandemics, and Government sanctioned restrictions and orders, whether known or unknown at the time of entering into this Agreement) (Force Majeure Event).

23.8 Governing law: This Agreement is governed by the laws of Queensland, Australia. Subject to clause 23.4, each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Queensland and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.

23.9 Publicity: You agree that We may advertise or publicise the broad nature of Our provision of the Software to You, including on Our website or in Our promotional material.

23.10 No Exclusivity: The Software is provided to You on a non-exclusive basis.

23.11 Non-solicitation: You acknowledge that Our Personnel are a valuable asset of Our business. Accordingly, You agree that during the Term and for 12 months after the Term, You will not, directly or indirectly, knowingly recruit or solicit, employ, engage as a consultant, or otherwise retain, any of Our Personnel who are involved in the performance of this Agreement, to work for You or any business which competes with us. For the avoidance of doubt, this provision shall not restrict hiring of employees in response to general public advertisements of employment.

23.12 Notices: Any notice given under this Agreement must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 2 Business Days in the case of post, or at the time of transmission in the case of transmission by email (or, where the time of transmission is not on a Business Day, 9am on the next Business Day).

23.13 Online execution: This Agreement may be executed by means of such third party online document execution service as We nominate subject to such execution being in accordance with the applicable terms and conditions of that document execution service.

23.14 Relationship of Parties: This Agreement is not intended to create a partnership, joint venture, employment or agency relationship between the Parties.

23.15 Severance: If a provision of this Agreement is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from this Agreement without affecting the validity or enforceability of the remainder of that provision or the other provisions in this Agreement.

24. Definitions

In this Agreement, capitalised words will have the meaning given in this clause 24 or as otherwise defined in this Agreement:

Active means (for the purposes of clause 8 of this Agreement) that all fees due under the applicable Quote, and this Agreement, have been paid in full, neither party has validly terminated the applicable Subscription under clause 21 and Emesent has not suspended the applicable Subscription for any reason.

Additional Services has the meaning given in clause 8.3 (b).

Advanced Software means the Advanced Operating Software, the Advanced Processing Software, and any other software required to access, assess, map or otherwise utilise the data collected by the Emesent hardware or products. Advanced Software does not include Foundational Operating Software.

Advanced Operating Software means software that provides enhanced hardware operating functionalities beyond the Foundational Operating Software, including associated applications on devices such as tablets, smartphones and other portable devices.

Advanced Processing Software means software that provides tools and functionalities for processing point cloud capture data including advanced algorithms for high-resolution visualization and comprehensive export capabilities.

Foundational Operating Software means entry-level hardware operating software that includes core LiDAR data capture, basic onboard visualization and export capabilities required to operate selected Emesent products and is included in the purchase of those products.

Business Day means a day on which banks are open for general banking business in Queensland, excluding Saturdays, Sundays and public holidays.

Cancellation Fee means the value of the Fees still payable for the remainder of the Term as at the date of termination.

Commencement Date means the date for the commencement of the Agreement, as set out in the Quote.

Computing Environment means Your computing environment including all hardware, software, information technology and telecommunications services and Systems.

Confidential Information includes information which:

(a) is disclosed to the Receiving Party in connection with this Agreement at any time;

(b) is prepared or produced under or in connection with this Agreement at any time;

(c) relates to the Disclosing Party's business, assets or affairs; or

(d) relates to the subject matter of, the terms of and/or any transactions contemplated by this Agreement,

whether or not such information or documentation is reduced to a tangible form or marked in writing as "confidential", and howsoever the Receiving Party receives that information.

Consequential Loss includes any consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

Customer Data means the information, logos, documents, customer information, Personal Information and other data to which You provide Us access to, or which is stored by the Software, or generated as a result of Your use of the Software.

Disclosing Party means the party disclosing Confidential Information to the Receiving Party.

Quote means a commercially binding document supplied by Us to You listing the proposed prices for the supply of Emesent software, products or services. The Quote is provided subject to the entire terms of this Agreement.

Feedback means any idea, suggestion, recommendation or request by You (or any of Your Personnel or Authorised Users or customers), whether made verbally, in writing, directly or indirectly, in connection with the Software.

Insolvency Event means any of the following events or any analogous event:

(a) a Party disposes of the whole or any part of the Party's assets, operations or business other than in the ordinary course of business;

(b) a Party ceases, or threatens to cease, carrying on business;

(c) a Party is unable to pay the Party's debts as the debts fall due;

(d) any step is taken by a mortgagee to take possession or dispose of the whole or any part of the Party's assets, operations or business;

(e) any step is taken for a party to enter into any arrangement or compromise with, or assignment for the benefit of, a Party's creditors or any class of a Party's creditors; or

(f) any step is taken to appoint an administrator, receiver, receiver and manager, trustee, provisional liquidator or liquidator of the whole or any part of a Party's assets, operations or business.

Intellectual Property means any domain names, know-how, inventions, processes, trade secrets or Confidential Information; or circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.

Intellectual Property Breach means any breach by You (or any of Your Personnel) of any of Our Intellectual Property Rights (or any breaches of third-party rights including any Intellectual Property Rights of third parties), including, but not limited, to You (or Your Personnel):

(a) copying, altering, enhancing, adapting or modifying any of Our Intellectual Property;

(b) creating derivative works from Our Intellectual Property;

(c) providing or disclosing Our Intellectual Property to, or allowing Our Intellectual Property to be used by, any third party;

(d) assigning or transferring any of Our Intellectual Property Rights or granting sublicenses of any of Our Intellectual Property Rights, except as expressly permitted in this Agreement;

(e) reverse engineering or decompiling any of Our Intellectual Property Rights, except where permitted by Law; or

(f) using or exploiting Our Intellectual Property for purposes other than as expressly stated in this Agreement (including, without limitation, using Our Intellectual Property for commercial purposes or on-selling Our Intellectual Property to third parties).

Intellectual Property Rights means for the duration of the rights in any part of the world, any industrial or intellectual property rights, whether registrable or not, including in respect of Intellectual Property.

Licensed Unit means a single hardware device or product specified in a customer Order identified by model or serial number, or other unique identifier.

Moral Rights has the meaning given in the Copyright Act 1968 (Cth).

Our Materials means all work, models, processes, technologies, strategies, materials, information, documentation and services (including the Specifications, Intellectual Property, equipment, Software, and services) that We may provide to You under this

Agreement, and which may contain material which is owned by or licensed to Us, and is protected by Australian and international laws.

Perpetual License means a non-exclusive, perpetual right to use the Software on a per unit basis, granted upon payment of a one-time license fee, as described in the Quote.

Personnel means, in respect of a party, any of its employees, consultants, suppliers, distributors, partners, subcontractors or agents.

Quote means the quotation provided by Emesent to You in writing, which is subject to this Agreement.

Receiving Party means the party receiving Confidential Information from the Disclosing Party.

Software has the meaning given in clause 2.1 and includes the Advanced Software unless otherwise stated.

Software Subscription means a non-exclusive, time-limited right to use the Software on a per unit basis, granted in exchange for recurring subscription fees, as described in the Quote.

Support Subscription means a separately-purchased, time-limited right to receive Support, Maintenance and Upgrades for a Perpetual License or Software Subscription, as described in the Quote.

Support, Maintenance & Upgrades" means:

(a) technical support as described in Clause 8.3(a) ("Support");

(b) error corrections, patches, bug-fixes and minor updates ("Maintenance"); and

(c) new releases, major upgrades and feature enhancements ("Upgrades")

each delivered electronically.

System means all hardware, software, networks and other IT systems used by a Party from time to time, including a network.

Your Materials means all work, models, processes, technologies, strategies, materials, information, documentation and services (including Intellectual Property), owned, licensed or developed by or on behalf of You or Your Personnel before the Commencement Date and/or developed by or on behalf of You or Your Personnel independently of this Agreement.

25. Interpretation

In this Agreement, unless the context otherwise requires:

(d) a reference to this Agreement or any other document includes the document, all schedules and all annexures as novated, amended, supplemented, varied or replaced from time to time;

(e) a reference to any legislation or law includes subordinate legislation or law and all amendments, consolidations, replacements or re-enactments from time to time;

(f) a reference to a natural person includes a body corporate, partnership, joint venture, association, government or statutory body or authority or other legal entity and vice versa;

(g) no clause will be interpreted to the disadvantage of a party merely because that party drafted the clause or would otherwise benefit from it;

(h) a reference to a party (including a party) to a document includes that party's executors,

(i) administrators, successors, permitted assigns and persons substituted by novation from time to time;

(j) a reference to $ or dollars refers to the currency of Australia from time to time;

(k) a reference to a covenant, obligation or agreement of two or more persons binds or benefits them jointly and severally; and

(l) a reference to time is to local time in Queensland.