



Australian Government
Civil Aviation Safety Authority



RPAS Platform

Terms and Conditions

Between **The Civil Aviation Safety Authority (ABN 44 808 014 470)**

And **[Insert Software Provider's name] (ABN [insert ABN])**

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INTRODUCTION

- A. CASA has introduced the RPAS Platform to enable it to manage RPA-related advisories, rules and regulatory services in a digital form that better meets the needs of RPA Operators.
- B. CASA has engaged the RPAS Platform Developer to develop the RPAS Platform on CASA's behalf. CASA operates the RPAS Platform under a licence from the RPAS Platform Developer.
- C. The RPAS Platform interfaces with Approved Applications to enable data sharing facilitating the delivery of regulatory and operational information to RPA Operators.
- D. CASA lists Approved Applications on its website www.casa.gov.au/droneapp for the benefit of RPA Operators.
- E. Currently the RPAS Platform's functions are limited to delivering safety education information to RPA Operators as to where RPA may safely and lawfully operate.
- F. CASA plans to integrate the platform with CASA's ICT Environment to assist with delivering regulatory services to RPA Operators.
- G. CASA will introduce new functions to the RPAS Platform through phases.
- H. CASA will permit the Software to connect with the RPAS Platform in accordance with this Agreement. If CASA determines the Software does not comply with this Agreement, it may suspend its connection to, or remove it from, the RPAS Platform.

Agreement Terms and Conditions

Part 1 – Context of Agreement

1. Duration of this Agreement

- 1.1 This Agreement commences on the Production Date and, unless terminated earlier, continues for the duration of the Initial Agreement Period.
- 1.2 CASA may extend the Initial Agreement Period for the further period(s) specified in Item 5 on the terms and conditions of the Agreement then in effect. To do this, CASA must give at least 14 days' Notice to the Software Provider before the end of the current Agreement Period.
- 1.3 Any extension exercised in accordance with clause 1.2 takes effect from the end of the then current Agreement Period.

2. Definitions

Expressions used in this Agreement have the meanings given in the Glossary at Schedule 2.

3. Interpretation

- 3.1 In this Agreement, unless the contrary intention appears:
 - (a) clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer

- (b) words importing a gender include each other gender
 - (c) words in the singular number include the plural and vice versa
 - (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have a corresponding meaning
 - (e) a reference to a clause, paragraph or schedule or is to a clause/paragraph of, or schedule to, this Agreement
 - (f) a reference to a numbered Item is a reference to the Item with that number contained in the Agreement Details
 - (g) a reference to a section or paragraph in a schedule is to a section or paragraph of the schedule in which it appears
 - (h) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time
 - (i) a reference to time is to the time in the place where the obligation is to be performed
 - (j) a reference to a party is to a party to this Agreement, and includes the party's executors, administrators, successors and permitted assignees and substitutes
 - (k) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity
 - (l) a reference to a Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them
 - (m) a word or expression defined in the Corporations Act has the meaning given to it in that Act
 - (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for preparing this Agreement or any part of it
 - (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day, and
 - (p) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
- 3.2 If there is inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of any inconsistency:
- (a) Agreement Terms and Conditions
 - (b) Schedules, and
 - (c) documents incorporated by reference in this Agreement.

Part 2 - Parties' responsibilities

4. General obligations

4.1 The parties will at all times:

- (a) act reasonably in performing their obligations and exercising their rights under this Agreement

- (b) diligently perform their respective obligations under this Agreement, and
- (c) work together in a collaborative manner.

5. CASA's role

5.1 CASA's responsibilities for managing the RPAS Platform include:

- (a) approving applications to connect to the platform
- (b) determining the requirements an application must meet for approval
- (c) overseeing the Onboarding Process
- (d) conducting compliance checks to ensure Approved Applications continue to meet these requirements, and
- (e) working with Software Developers to identify and implement future functions for the RPAS Platform.

5.2 CASA may contract some of these responsibilities to an external provider.

5.3 CASA will provide Software Developers with credentials (**Access Credentials**) for accessing the Staging Environment once the developers have been approved to progress to the Onboarding Process.

5.4 Once CASA has issued a CASA Approval, it will provide the relevant Software Developer with credentials for accessing the Production Environment. The Software Developer may retain credentials for the Staging Environment to support testing of Updates and New Releases.

6. CASA's warranties

CASA warrants that:

- (a) it has the right to enter into this Agreement, and
- (b) it has all rights necessary to grant the licence at clause 15.1.

7. Software Provider's warranties

The Software Provider warrants that:

- (a) it has the right to enter into this Agreement
- (b) it has all rights and property necessary to:
 - (i) develop and distribute the Software, and
 - (ii) perform all its obligations under this Agreement
- (c) the Software will:
 - (i) comply with the Operating Rules
 - (i) be fit for the purposes described in the Concept of Operations, and
 - (ii) be complete, accurate and free from material faults in design
 - (ii) be published on media that under normal use will be free from defects and Harmful Code

- (d) it will not, nor will it permit any Third Party under its control, to negligently introduce any Harmful Code into a User's system, the RPAS Platform or CASA's ICT Environment
- (e) if any Harmful Code is introduced into a User's system, the RPAS Platform or CASA's ICT Environment, it will promptly report that introduction to CASA, and
- (f) where that Harmful Code is introduced as a result of a breach of paragraph 7(d), it will use all reasonable efforts to:
 - (i) take all necessary action to eliminate the Harmful Code, and
 - (ii) promptly, at its own cost, repair any harm or destruction caused by that Harmful Code.

8. Software Provider's obligations

- 8.1 The Software Provider must ensure the Software is configured to:
- (a) comply with the Operating Rules including the requirement to distribute CASA advisories/notifications to Users, and
 - (b) prohibit and prevent Users from using CASA Data in any way that breaches any Law or contract.
- 8.2 If directed by CASA to do so, the Software Provider must remove any publicly available material posted by a User using the Software that is defamatory, offensive, abusive, indecent, spam or threatening material.
- 8.3 The Software Provider must not use or permit the Software to be used in a way that -
- (a) subject to clause 8.4, may expose CASA, the RPAS Platform Developer or any Data Provider to the risk of any Claim or of prosecution under any Law
 - (b) interferes with the operation of the RPAS Platform or CASA's ICT Environment, or
 - (c) permits a User or any other Third Party to connect directly to the RPAS Platform. A subcontractor to the Software Provider approved by CASA is not a Third Party for this clause.
- 8.4 The Software Provider's duty under paragraph 8.3(a) to prevent the Software from being used in certain ways only applies to the extent the provider can reasonably control that risk.
- 8.5 In operating the Software, the Software Provider must:
- (a) regularly backup the data associated with it
 - (b) use up-to-date, industry-standard malicious code and virus detection software for preventing and detecting Harmful Code, and
 - (c) provide appropriate support services for Users in accordance with clause 25.
- 8.6 The Software Provider is responsible for ensuring -
- (a) its Systems are capable of accessing the RPAS Platform and the CASA Data, and
 - (b) any CASA Data made available to Users through the Software are the most recent data obtainable through the RPAS Platform as specified in the Operating Rules.

- 8.7 In performing Agreement-related activities, the Software Provider must comply with all Laws, including any applicable requirements under -
- (a) the Corporations Act to register for carrying on business in Australia, or
 - (b) the GST Act to register for GST.
- 8.8 In clause 8.7:
- (a) **GST** has the meaning given under the GST Act.
 - (b) **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth),
- 9. Corporate trustees**
- 9.1 This clause 9 applies if the Software Provider acts as trustee of any trust in relation to any matters within the scope of this Agreement.
- 9.2 In relation to all relevant matters, the Software Provider warrants it has -
- (a) the power and authority as trustee to perform relevant obligations, and
 - (b) a right of indemnity from the trust's assets.

Part 3 - Charging

10. Charging by CASA

- 10.1 Unless otherwise stated in a CASA Approval, CASA will not impose a fee on the Software Provider for allowing its Software to connect to the RPAS Platform or to interface with it, unless it is required to pass on Third Party costs (for example, aeronautical data subscription fees).

11. Charging by Software Provider

- 11.1 The Software Provider may charge Users for using the Software, except to the extent charging is prohibited by the Operating Rules.
- 11.2 Approved Applications may collect and convey Users regulatory service fee payments for regulatory services delivered through the RPAS Platform. CASA will work with Software Providers to develop appropriate standards for collecting such payments.

12. Costs

- 12.1 The Software Provider is responsible for its own costs in connecting to the RPAS Platform, travel/communication expenses, or providing any services based on RPAS Platform connectivity. CASA will not reimburse the Software Provider for any such costs.

13. Requirements for accessing Data Sources

- 13.1 The Software Provider must ensure the Software includes and uses data from the following Third Party Data Sources:
- (a) *External Data Feeds*
Obstacles and hazards data, including emergency services data, required for display in the application. Details of these feeds and their authoritative source are set out in Attachment A of the Operating Rules.

(b) *Airspace Data*

Airspace data as set out in Attachment A of the Operating Rules.

Part 4 - Licensing

14. Intellectual Property Rights

- 14.1 Subject to any interest held by Third Parties, all Intellectual Property Rights in:
- (a) CASA Data remain vested in CASA
 - (b) the RPAS Platform remain vested in the RPAS Platform Developer, and
 - (c) Third Party Data Sources remain vested in the relevant Data Providers
 - (d) the Software remain vested in the Software Provider.
- 14.2 This Agreement does not affect the ownership of Intellectual Property Rights in CASA Data, the RPAS Platform, the Software or Third Party Data Sources.
- 14.3 Neither party will own or acquire any Intellectual Property Rights of the other party under this Agreement, whether created in connection with or outside of this Agreement.
- 14.4 For clarity, clause 14.3 does not affect licence granted by CASA at clause 15.1.

15. Grant of Licence

- 15.1 Subject to clause 15.2, CASA grants to the Software Provider a personal, non-exclusive, non-transferable, world-wide, revocable licence to:
- (a) Use CASA Data to operate with the Software
 - (b) develop and maintain the Software,
 - (c) Commercialise CASA Data in conjunction with the Software in accordance with clause 16, and
 - (d) sublicense CASA Data to Third Party Developers and Related Body Corporates in accordance with clause 20.3,
- subject to the conditions specified in this Part 4 and Part 5.
- 15.2 For clarity, the licence granted by CASA at clause 15.1 is solely for the purpose of enabling the Software to interface with the RPAS Platform for the activities permitted by that licence.
- 15.3 CASA reserves all rights in CASA Data and the RPAS Platform that are not expressly granted in this Part 4.

16. Commercialisation

- 16.1 In developing, distributing and operating the Software, the Software Provider may Commercialise CASA Data subject to this Agreement. However, so far as the CASA Data it collects through connecting to the RPAS Platform comprises Personal Information, the Software Provider may not Commercialise that information except where expressly authorised by the Operating Rules.

- 16.2 The Software Provider's Use of the Software is subject to the Software Provider ensuring that -
- (a) except where expressly authorised by the Operating Rules, End Users and others Third Parties are prohibited from Commercialising any part of the CASA Data or the RPAS Platform, and
 - (b) ownership of Intellectual Property Rights in Data Sources is acknowledged in accordance with paragraph 18.2(b).

16.3 For clarity, paragraph 16.2(a) -

- (a) does not prevent the Software Provider from permitting a Third Party Developer or Related Body Corporate to Commercialise CASA Data in accordance with clause 20.3, but
- (b) does not permit a Third Party Developer or Related Body Corporate to Commercialise any Third Party Data Source, the Platform API or the RPAS Platform itself.

17. Third Party Data Sources

17.1 This clause 17 applies to the extent that:

- (a) any CASA Data is derived from a Third Party Data Source
- (b) the relevant Data Provider imposes conditions on the Use of that source, and
- (c) those conditions (**Third Party Conditions**) are relevant to the Software Provider's Use of CASA Data from that source.

17.2 Where CASA becomes aware of a Third Party Condition, it must Notify the Software Provider's Representative of that condition within a reasonable time.

17.3 The Software Provider must comply with any Third Party Condition Notified by CASA under clause 17.2.

18. Notices with Data Sources

18.1 The Software Provider must not remove, obscure or interfere with any warning or disclaimer incorporated in a Data Source (**Data Source Warning**).

18.2 Unless a CASA Approval states otherwise, the Software Provider must ensure that the Software:

- (a) includes notices corresponding to any Data Source Warning, where appropriate
- (b) acknowledges ownership of Intellectual Property Rights in Data Sources whenever data from those sources are reproduced
- (c) does not represent or imply that:
 - (i) CASA endorses or sponsors the Software, other than approving it for connection to the RPAS Platform, or
 - (ii) the Software is a substitute for authorised data published by CASA or a Data Provider, or
- (d) subject to paragraph 18.2(a), does not incorporate any CASA marks or logos, without CASA's written permission.

18.3 For the purposes of paragraph 18.2(b):

- (a) Where the Software Provider reproduces data from a Data Source owned by CASA, it may use the following form of acknowledgement:

© *Civil Aviation Safety Authority*

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the Copyright Act 1968, all other rights are reserved.

- (b) Where the Software Provider reproduces data from a Data Source owned by a Data Provider, it must consult with the Data Provider and use whatever form of acknowledgement the Data Provider requires.

18.4 For clarity, nothing in this clause 18 is intended to limit the licence granted by CASA at clause 15.1 to Use CASA Data.

19. Not-to-scale Maps

19.1 This clause 19 applies where the Software generates for a User a map (**Not-to-scale Map**) that is not to scale and that is associated with CASA Data.

19.2 The Software Provider must ensure the Software displays a message concurrently with the Not-to-scale Map words to the following effect:

“Note: Map not to scale. Do not use for navigational purposes”.

20. Sublicensing

20.1 The Software Provider may not sublicense CASA Data or the API to any Third Parties. A subcontractor to the Software Provider approved by CASA is not a Third Party for this clause.

20.2 The Software Provider must ensure its terms for accessing the Software prohibit Users from sublicensing, assigning or (subject to clause 20.3) Commercialising CASA Data or the RPAS Platform.

20.3 Unless the Operating Rules state otherwise, the Software Provider may (subject to clause 16) sublicense –

- (a) a Third Party Developer to Use and Commercialise CASA Data in a product of the developer, and
- (b) a Related Body Corporate to Use and Commercialise CASA Data to enable the Software Provider to comply with registration requirements at clause 8.7.

20.4 In order to sublicense a Third Party Developer under clause 20.3, the Software Provider must:

- (a) ensure the developer can only access CASA Data through a Software API, and not through the Platform API, and
- (b) establish licensing terms with the developer obliging it to:
- (i) comply with the requirements of clauses 21 and 23, and
- (ii) ensure its product complies with the requirements of clauses 18, 19, 20 and 22, and

- 20.5 In order to sublicense a Related Body Corporate under clause 20.3, the Software Provider must establish licensing terms with the Related Body Corporate obliging it to comply with the conditions specified in Part 4 and Part 5, so far as they are applicable to its activities.
- 20.6 For the purposes of paragraph 20.4(b), references to the Software Developer and the Software in clauses 18 to 23 will be read as referring to the Third Party Developer and the developer's product respectively.

21. Moral Rights

- 21.1 The licence granted by CASA at clause 15.1 does not constitute consent to infringing any Moral Rights.
- 21.2 The Software Provider must:
- (a) ensure its Use of CASA Data and the RPAS Platform does not infringe anyone's Moral Rights, and
 - (b) seek Moral Rights consents, where required.

Part 5 - Conditions on Use of RPAS Platform

22. Air Navigation uses

The Software Provider must ensure the Software includes a prominent statement in connection with CASA Data confirming they are not suitable for Air Navigation. The statement must comply with section 5.1 of the Operating Rules.

23. Restrictions on use

- 23.1 In developing, distributing or operating the Software, the Software Provider must not:
- (a) decompile, disassemble, reverse engineer or otherwise attempt to derive the RPAS Platform's source code, or
 - (b) remove any copyright or proprietary notice associated with the RPAS Platform, the CASA Data or a Third Party Data Source.
- 23.2 In connection with CASA Data or the RPAS Platform, the Software Provider must not do or authorise anything that may jeopardise the Intellectual Property Rights of CASA, the RPAS Platform Developer or a Data Provider in that material.

24. Unauthorised Use

- 24.1 The Software Provider must take reasonable care and protection (including through the use of appropriate supervision, control and security measures) to:
- (a) prevent a User or other Third Party from Using the Software except as permitted by this Part 5, and
 - (b) prevent any unauthorised Use of CASA Data or the RPAS Platform by any of its Personnel or Users.
- 24.2 If the Software Provider becomes aware of any unauthorised Use (whether by its Personnel or by Third Parties) it must:
- (a) immediately notify CASA in writing about Notify CASA of that Use within one Business Day, and

- (b) take all commercially reasonable steps, and cooperate with CASA, to prevent further unauthorised Use.

25. Support Services

- 25.1 In operating the Software, the Software Provider must provide support services to Users in accordance with this clause 25.
- 25.2 Unless stated otherwise in a CASA Approval, the Support Services must include:
- (a) supplying a telephone or other electronic support to enable Users to report Problems
 - (b) maintaining a facility to enable Users and CASA to download Updates and New Releases
 - (c) correcting any Problem in accordance with any applicable Service Levels, and
 - (d) supplying Users and CASA with Updates as required to:
 - (i) rectify Problems
 - (ii) comply with statutory or regulatory changes relating to the Software, and
 - (iii) operate the Software under RPAS Platform upgrades.
- 25.3 Unless reasonably incidental to the Support Services, the Software Provider is not required to provide services involving:
- (a) correcting Problems caused by a User operating the Software contrary to the Software Provider's instructions
 - (b) rectifying Problems caused by a User's misuse or incorrect use of the Software
 - (c) assisting Users with difficulties due to user inexperience, or
 - (d) equipment maintenance.

26. Updates and New Releases

The Software Provider must promptly provide CASA with the following information regarding any Update or New Release it makes available:

- (a) the nature of the improvements/corrections contained in the Update or New Release
- (b) any adverse effects the Update or New Release may be expected to have on a User's system, the RPAS Platform or CASA's ICT Environment (including any expected degradation in a system's reliability, performance or functionality), and
- (c) sufficient details to enable CASA to determine whether the Update or New Release complies with CASA's Operational Requirements.

27. Test Procedures

- 27.1 Within 90 days of the Production Date, CASA may conduct a post--implementation review of the Software to ensure it continues to function in accordance with CASA's Operational Requirements.
- 27.2 CASA may also conduct:
- (a) scheduled testing of the Software no more than twice each year, and
 - (b) ad-hoc testing of the Software at any time, without having to Notify the Software Provider.

28. Certification as a Data Provider

- 28.1 Unless otherwise stated in a CASA Approval, the Software Provider is not required to be certified as a data service provider under Part 175 of the CASR.

Note: In future, CASA may require Software Developers to become certified as data service providers under Part 175 of the CASR, or to complete a similar certification process, before they can be approved to deliver certain information or services through the RPAS Platform. There would be a cost for this certification.

Part 6 - Management/allocation of risks

29. Indemnity

- 29.1 The Software Provider indemnifies CASA, the RPAS Platform Developer and Data Providers (**Indemnified Parties**) from and against any:

- (a) Loss incurred by an Indemnified Party
- (b) Loss of, or damage to, an Indemnified Party's property, and
- (c) Loss incurred by an Indemnified Party in dealing with (including investigation of, responding to and settlement of) any Claim against it

arising from:

- (d) any breach of the Software Provider's obligations or warranties under this Agreement, or
- (e) any negligent or deliberately wrongful act or omission of the Software Provider or its Personnel in connection with this Agreement.

- 29.2 The Software Provider's liability to indemnify an Indemnified Party under this Agreement will be reduced proportionately to the extent that any negligent/unlawful act or omission of an Indemnified Party contributed to the Loss.

- 29.3 In this clause 29, **an Indemnified Party** includes that party's Personnel.

30. Limitation of liability

- 30.1 Except with respect to indemnification obligations under clause 29 or a breach of a party's confidentiality obligations, to the extent permitted by Law, each party excludes all liability to the other party for any Consequential Loss arising out of breach of this Agreement or in connection with the relationship established by this Agreement.

- 30.2 In this clause 30, **Consequential Loss** means any Loss (including an indirect or special Loss) recoverable at Law that is:

- (a) a loss of profit, revenue or anticipated revenue
- (b) a loss of opportunity or goodwill, or
- (c) consequential upon another Loss.

31. Insurance

- 31.1 In connection with its performance of this Agreement, the Software Provider must have and maintain the following insurance policies for the Agreement Period:

- (a) public liability for an amount at least equal to that specified at Item 9, and
 - (b) any additional types specified at Item 12 for amounts at least equal to the values specified in that Item.
- 31.2 In connection with services or Products it supplies to Users in relation to the Software, the Software Provider must have and maintain the following insurance policies for the Agreement Period:
- (a) public liability for an amount at least equal to that specified at Item 9
 - (b) if the Software Provider supplies services - professional indemnity for an amount at least equal to that specified at Item 10
 - (c) if the Software Provider supplies Products - product liability for an amount at least equal to that specified at Item 11, and
 - (d) any additional types specified at Item 12 for amounts at least equal to those specified in that Item.
- 31.3 The Software Provider must maintain all insurance policies required under this clause 31 for at least three years after the Agreement's expiry or termination.
- 31.4 The Software Provider must, on request by CASA, provide certificates of currency that it has insurance as required by this clause 31.
- 31.5 If, at any time during the Agreement Period, the Software Provider ceases to have the benefit of any insurance policy required by this clause 31 (whether through cancellation, lapse or otherwise), it must Notify CASA immediately.
- 31.6 In this clause 31, **Product** includes software/hardware products and supporting documentation.

32. Disclaimers

- 32.1 The Software Provider's Use of the RPAS Platform and the Platform API is at its own risk. To the extent legally permitted, the RPAS Platform and the Platform API are provided without warranties on an 'as is' basis. In particular, neither CASA nor the RPAS Platform Developer warrants that:
- (a) the RPAS Platform or the Platform API will be –
 - (i) suitable for the Software Provider's intended Use, or
 - (ii) continuously available
 - (b) Use of the RPAS Platform or the Platform API will be error-free or uninterrupted
 - (c) errors in the RPAS Platform or the Platform API will be corrected
 - (d) CASA Data will be accurate, current or complete, or
 - (e) the format in which CASA Data are made available through the RPAS Platform or the Platform API will be –
 - (i) usable by the Software Provider, or
 - (ii) compatible with the Software Provider's Systems.
- 32.2 Where any Law implies a warranty that cannot be excluded, then as far as possible, CASA's liability for breach of the warranty will, at CASA's option, be limited to resupplying the services or to paying for them to be resupplied.

Part 7 - Security

33. General requirements

- 33.1 When performing its obligations under this Agreement, the Software Provider must comply with:
- (a) all security requirements specified in the Operating Rules, and
 - (b) subject to clause 33.2, any direction relating to security Notified by CASA (e.g. a direction to comply with an additional security policy/requirement).
- 33.2 If the Software Provider considers complying with a direction under clause 33.1(b) would materially increase its costs of performing this Agreement, it may issue CASA with an Objection Notice under clause 49.3. The Notice must be served within five Business Days of the date CASA issues the direction.
- 33.3 If the Software Provider issues an Objection Notice under clause 33.2, the provisions of clause 49 will apply as if the direction was a Variation Notice in accordance with clause 49.3.
- 33.4 The Software Provider must implement best practice security measures to ensure CASA Data is protected against loss, damage, corruption, misuse and unauthorised access.
- 33.5 The Software Provider must immediately Notify CASA if it -
- (a) breaches any of its obligations under this clause 33, or
 - (b) becomes aware of circumstances that may reasonably suggest that:
 - (i) it could have breached its obligations under this clause 33, or
 - (ii) any CASA Data has been lost, stolen, corrupted or accessed by an unauthorised person.

34. Physical security

- 34.1 The Software Provider must:
- (a) ensure its premises are kept secure
 - (b) ensure its Personnel who have access to CASA Data are briefed on security requirements for CASA Data, and
 - (c) where requested by CASA's Representative, provide details of its physical security measures for protecting CASA Data.

35. Cyber security

- 35.1 The Software Provider must:
- (a) take steps consistent with good industry practice to manage the risk of cyber-attack on its Systems and the Software, and
 - (b) where requested by CASA's Representative, provide details of its security measures for managing this risk.
- 35.2 If the Software Provider becomes aware of a cyber-attack on its Systems or the Software, it must:
- (a) Notify CASA of the attack within one Business Day, and

- (b) Comply with CASA's reasonable requirements for responding to the attack.

36. Information security

36.1 The Software Provider must:

- (a) take disaster recovery and business continuity steps consistent with industry practice to ensure CASA Data on its Systems is not lost, corrupted or rendered inaccessible, and
- (b) ensure access to CASA Data and CASA's Confidential Information on its Systems is controlled so that the data/information are only accessible by Personnel who need to access them for the purposes of this Agreement.

37. Access Credentials

37.1 The Software Provider must:

- (a) take reasonable steps to ensure Access Credentials are only available to Authorised Personnel
- (b) take reasonable steps to protect Access Credentials from being lost, stolen or disclosed to any Third Party (excluding any Authorised Personnel)
- (c) not record or provide Access Credentials in a manner that will allow someone other than its Authorised Personnel to obtain or use them, and
- (d) Notify CASA as soon as possible if it suspects Access Credentials have –
 - (i) become known to someone other than its Authorised Personnel, or
 - (ii) been lost or stolen.

37.2 In this clause 37, **Authorised Personnel** are Personnel authorised by the Software Provider to develop, distribute or operate the Software.

Part 8 - Information management

38. Protection of CASA Data and Personal Information

38.1 The Software Provider acknowledges the CASA Data it may access through the RPAS Platform may include Personal Information of RPA operators. In this Part 8, **CASA Data** includes Personal Information.

38.2 The Software Provider agrees to be bound by the Privacy Act and not to do anything which, if done by CASA, would be a breach of an APP.

38.3 In relation to any CASA Data it collects through connecting to the RPAS Platform, the Software Provider must:

- (a) Use CASA Data only for the purposes described in CASA's Operational Requirements
- (b) not disclose Personal Information unless authorised or required by Law
- (c) not engage in any practice that:
 - (iii) is contrary to the Privacy Act, or
 - (iv) would be a breach of an APP or any applicable Registered APP Code unless that act or practice is explicitly required under this Agreement

- (d) implement appropriate safeguards to keep Personal Information secure
- (e) comply with any directions Notified by CASA regarding the treatment of CASA Data, and
- (f) ensure that all Personnel who are required to deal with CASA Data are made aware of the Software Provider's obligations under this clause 38.

38.4 The Software Provider must, on request by CASA, promptly provide CASA with a copy of the Software Provider's privacy policy.

39. Restriction on altering CASA Data

39.1 Unless otherwise stated in a CASA Approval, the Software Provider must not alter the content of:

- (a) any CASA Data it accesses through connecting to the RPAS Platform, and
- (b) the disclaimers at clause 32.

39.2 The Software Provider may make minor alterations to the format or presentation of CASA Data to the extent that any alteration:

- (a) does not change the content of that data, and
- (b) is not inconsistent with CASA's Operational Requirements.

40. Duty to Notify of information breach

If the Software Provider becomes aware of a breach or possible breach of any of the obligations under this Part 6, it must Notify CASA within one Business Day and comply with any commercially reasonable directions CASA issues for managing that (possible) breach.

41. Confidentiality

41.1 Subject to clause 41.2, each party must:

- (a) keep the other party's Confidential Information confidential
- (b) only use that information for the purpose of performing this Agreement, and
- (c) not disclose that information to any Third Party except as expressly authorised by this Agreement or in a Notice from the other party.

41.2 A party's obligations under this clause 41 will not be taken to have been breached to the extent that Confidential Information:

- (a) is disclosed by a party to its Advisers or Personnel, including those of its affiliated companies, to comply with obligations, or to exercise rights, under this Agreement
- (b) is disclosed to a party's internal management Personnel to effectively manage or audit any Agreement-related activities
- (c) is disclosed by CASA –
 - (i) to the responsible Minister, or
 - (ii) in response to a request by a House/Committee of the Commonwealth Parliament
- (d) is shared by CASA within CASA's organisation, or with another Agency, where this serves the Commonwealth's legitimate interests

- (e) is authorised or required by Law to be disclosed, or
 - (f) is in the public domain otherwise than due to a breach of this clause 41.
- 41.3 If a party becomes aware that it has breached its obligations under this clause 41, it must Notify the other party of the breach within one Business Day.
- 41.4 Where a party discloses Confidential Information to another person:
- (a) pursuant to clauses 41.2(a), (b) or (d), the disclosing party must:
 - (i) Notify the receiving person that the information is Confidential Information, and
 - (ii) not provide the information unless the receiving person agrees to keep the information confidential, or
 - (b) pursuant to clause 41.2(c), the disclosing party must Notify the receiving party that the information is Confidential Information.
- 41.5 Where the parties agree in writing after the Production Date that certain additional information is to constitute Confidential Information, that information is incorporated into this Agreement from the date of that agreement.
- 41.6 The obligations under this clause 41 continue, notwithstanding the expiry or termination of this Agreement:
- (a) in relation to an item of information described in Schedule 3 - for the period set out in that Schedule in respect of that item, and
 - (b) in relation to any information the parties agree under clause 41.5 is to constitute Confidential Information - for the period agreed by the parties in writing in respect of that information.
- 41.7 For clarity, nothing in this clause 41 –
- (a) limits any obligation either party may have either under the Law, or under this Agreement, to protect Personal Information, or
 - (b) prevents CASA from listing the Software on its website (and the Software Provider consents to CASA doing that).

42. Maintaining records

- 42.1 The Software Provider must maintain sufficient, accurate and up-to-date business and accounting records (including supporting documentation) of all transactions or events in relation to this Agreement for a minimum of two years after:
- (a) this Agreement's termination/expiry, or
 - (b) the relevant transaction or event,
- whichever is the later.
- 42.2 The Software Provider must ensure that the records maintained under this clause 42:
- (a) are kept securely in a manner that enables them to be conveniently audited
 - (b) comply with any applicable accounting standards, and
 - (c) are made available to CASA as required under this Agreement.

Part 9 - Suspension/termination rights

43. Suspension for non-compliance

- 43.1 CASA may, suspend or reduce the Software Provider's level of access to the RPAS Platform where:
- (a) CASA reasonably suspects that the Software Provider has committed or may commit a breach of this Agreement
 - (b) CASA reasonably considers the Software Provider -
 - (i) has adversely affected, or may adversely affect, the security, stability, reputation, integrity or operations of the RPAS Platform, or
 - (ii) is at risk of no longer being approved by CASA to access CASA Data or connect to the RPAS Platform.
- 43.2 Where CASA suspends or reduces the Software Provider's access to the RPAS Platform under clause 43.1, the suspension or reduction will begin immediately and will last –
- (a) in relation to a suspension/reduction under paragraph 43.1(a) - until the breach by the Software Provider has been remedied to CASA's satisfaction, or
 - (b) in relation to suspension/reduction under paragraph 43.1(b) - until CASA Notifies the suspension/reduction is lifted.
- 43.3 The Software Provider must continue to perform its obligations under this Agreement notwithstanding any suspension or reduction of the RPAS Platform.
- 43.4 CASA's rights of suspension under this clause 43 are in addition to any other rights it has under this Agreement.

44. Termination by Software Provider

- 44.1 The Software Provider may terminate this Agreement at any time by giving CASA six weeks' Notice.
- 44.2 The Software Provider's termination right under this clause 44 is subject to the Software Provider Notifying all its Users that the Software will no longer be available or will cease to Use CASA Data after the termination date.
- 44.3 A termination notice issued by the Software Provider under clause 44.1 will only be valid if, within 10 Business Days of issuing that notice, the Software Provider provides CASA with written confirmation that it has complied with its obligations under clause 44.2.

45. Termination for convenience

- 45.1 CASA may terminate or reduce the scope of this Agreement (including by reducing or removing any CASA Data or Data Sources from the RPAS Platform) at any time, by giving the Software Provider eight weeks' Notice.
- 45.2 If CASA exercises its rights under clause 45.1, the Software Provider will not be entitled to any compensation including for:
- (a) loss of prospective profits, or
 - (b) loss of any benefits the Software Provider would have accrued if the termination or reduction had not occurred.

45.3 This clause 45 does not affect CASA's other rights under this Agreement or otherwise at Law.

46. Termination for default

- 46.1 CASA may terminate this Agreement immediately by notice to the Software Provider if:
- (a) the Software Provider breaches any provision of this Agreement –
 - (i) where the breach is not capable of remedy, including if the Software Provider uses the Platform API or accesses the RPAS Platform in violation of this agreement, or
 - (ii) where the breach is capable of remedy but the Software Provider does not rectify it within 10 Business Days after CASA issues it with a Notice to do so
 - (b) CASA considers its decision to grant the Software Provider access to the RPAS Platform was affected by an incomplete, false or misleading statement made by the Software Provider during the Onboarding Process
 - (c) CASA is reasonably satisfied the Software Provider is unable or unwilling to satisfy the terms of this Agreement
 - (d) a circumstance mentioned in paragraph 43.1(b) arises
 - (e) the Software Provider assigns its rights otherwise than in accordance with clause 56
 - (f) proceedings are initiated to wind up the Software Provider
 - (g) the Software Provider becomes bankrupt or enters into a scheme of arrangement with creditors, or
 - (h) another provision of this Agreement allows for termination under this clause 46.
- 46.2 If a purported termination by CASA under this clause 46 is determined by a competent authority to be improper, the termination will be deemed to be a termination for convenience under clause 45 with effect from the date of the termination Notice referred to in this clause 46.
- 46.3 This clause 46 does not affect CASA's other rights under this Agreement or otherwise at Law.

47. After termination

- 47.1 On the termination or expiry of this Agreement, the Software Provider must ensure the Software:
- (a) no longer Uses CASA Data, and
 - (b) includes a prominent statement to that effect for the information of Users.
- 47.2 For clarity, the termination of this Agreement does not affect any liability of one party to the other arising before termination.

Part 10 - Assurance processes

48. CASA's audit rights

- 48.1 In relation to its performance of this Agreement the Software Provider must:

- (a) give CASA's Representative or any Authorised Person access to premises occupied by the Software Provider
 - (b) permit those persons to participate in audits, inspect and take copies of any relevant material, and
 - (c) participate promptly and cooperatively in any audits conducted by CASA or an Authorised Person.
- 48.2 The Software Provider's participation in audits under this clause 48 does not diminish its responsibility to perform its obligations under the Agreement.
- 48.3 Unless it is not practicable or appropriate to give Notice, CASA must give the Software Provider:
- (a) five Business Days' Notice of an audit, and
 - (b) an indication of the documents, or class of documents, the auditor may require.
- 48.4 In exercising its audit rights under clause Part 1048.1, CASA must:48.1, CASA must take reasonable steps to minimise disruption to the Software Provider's business.
- (a) take reasonable steps to minimise disruption to the Software Provider's business, and
 - (b) in relation to any material it acquires relating to the Software Provider's pricing structure, technical know-how or trade secrets, treat that material as the Software Provider's Confidential Information for the Agreement Period plus three years.
- 48.5 Each party must bear its own costs of any audit under this clause 48.
- 48.6 In this clause 48, **Authorised Person** means any person authorised in writing by CASA to exercise its rights under this clause 48 and includes the Auditor-General exercising power under the *Auditor-General Act 1997* (Cth).

Part 11 - Procedural matters

49. Variations to Agreement

- 49.1 This Agreement may be varied at any time:
- (a) in writing signed by both parties, or
 - (b) by CASA in accordance with this clause 49.
- 49.2 CASA may at any time vary the Agreement by giving the Software Provider two months' written notice of the variation (**Variation Notice**).
- 49.3 If the Software Provider objects to a Variation Notice, it must give CASA's Representative a notice (**Objection Notice**) detailing its objection within ten Business Days from the date of the Variation Notice. Otherwise, the Software Provider will be deemed to have accepted the variation, which will take effect from the end of the period specified in the Notice.
- 49.4 If the Software Provider serves an Objection Notice in accordance with clause 49.3, the parties must discuss the objection in good faith within ten Business Days of the Objection Notice's date. If by the end of that time, the parties cannot resolve the objection, either party may terminate the Agreement by giving 20 Business Days' notice (**Termination Notice**).

49.5 For the duration of the Termination Notice period, the terms and conditions applicable immediately preceding the delivery of a Variation Notice will continue to apply.

50. Disputes

50.1 Before resorting to external dispute resolution mechanisms, the parties must seek to resolve any dispute in relation to the Agreement by referring the matter to the respective chief executive officers of the parties or their nominees.

50.2 If the parties cannot resolve the dispute in accordance with clause 50.1 within 20 Business Days, either party may refer the dispute to mediation by the Australian Disputes Centre (ADC) for resolution in accordance with the Guidelines for Commercial Mediation of the ADC.

50.3 Any information or documents disclosed by a party under this clause 50:

- (a) must be treated as that party's Confidential Information, and
- (b) may only be used to attempt to resolve the dispute.

50.4 Nothing in this clause 50 prevents a party from seeking interlocutory relief.

51. Day-to-day communications

51.1 RPAS Branch will represent CASA for the day-to-day purposes of this Agreement. The branch can be contacted at RPAS.Platform@casa.gov.au. All other communications by the Software Provider in relation to this Agreement should be directed to CASA's Representative.

51.2 The Software Provider must ensure the Software Provider's Representative is available to represent it for the day-to-day purposes of this Agreement.

52. Changes to CASA's Operating Requirements

52.1 CASA may amend CASA's Operating Requirements at any time (including where it introduces new functions to the RPAS Platform) by giving the Software Provider a Notice (**Change Notice**) under clause 52.2.

52.2 In issuing a Change Notice, CASA must give the Software Provider:

- (a) two months' Notice of any change to the Operating Rules, and
- (b) ten Business Days' Notice of any change to the Concept of Operations.

52.3 If the Software Provider objects to a Change Notice relating to the Operating Rules, it may issue CASA with an Objection Notice under clause 49.3. The notice must be served within five Business Days of the date CASA issues the Change Notice.

52.4 If the Software Provider issues an Objection Notice under clause 52.3, the provisions of clause 49 will apply as if the Change Notice was a Variation Notice in accordance with clause 49.3.

52.5 For clarity, the Software Provider does not have any right to object to a Change Notice relating only to the Concept of Operations.

53. RPAS Platform upgrades

53.1 CASA may relocate or upgrade the RPAS Platform and Platform API at any time and for any reason.

53.2 Where operationally practicable, CASA will provide the Software Provider with 35 days' Notice of any relocation or upgrade.

54. Notices

54.1 For a Notice to be effective, it must be:

- (a) in writing
- (b) addressed to the contact person of the other party, and
- (c) personally delivered, or sent by prepaid post, to the address or email address specified for each party in the Agreement Details.

54.2 A Notice given in accordance with clause 54.1 is received:

- (a) if left at the recipient's address, on the date of delivery
- (b) if sent by prepaid post, five days after the date of posting, and
- (c) if sent by email, when the sender's email system generates an electronic delivery receipt confirming the successful transmission from the sender's mail server unless the sender receives an electronic notification that the transmission was unsuccessful.

Part 12 - General

55. Entire Agreement

This Agreement constitutes the entire agreement of the parties about its subject matter. No written or oral agreement, arrangement or understanding made or entered into prior to the execution of this Agreement may be incorporated into the Agreement, except as expressly stated to the contrary.

56. Assignment and Novation

56.1 Unless otherwise permitted by this clause 56, a party may only assign its rights or novate its rights and obligations under this Agreement with the other party's written consent.

56.2 In accordance with this clause 56, the Software Provider may assign its rights or benefits under this Agreement to a Related Body Corporate, including pursuant to a merger, acquisition or sale of all or substantially all of its assets without CASA's consent.

56.3 Where in accordance with clause 56.2, the Software Provider enters into any arrangement assigning its rights or benefits, it will notify CASA of the arrangement within five Business Days of entering into it.

56.4 For clarity, the Software Provider may only enter into an arrangement to novate or otherwise deal with its obligations under this Agreement where it has obtained CASA's prior written consent to the arrangement.

57. Waiver

A waiver by a party of a breach will not be regarded as a waiver of any other breach. A failure by a party to enforce a provision will not be interpreted as a waiver (unless the waiving party confirms in writing that a waiver was intended).

58. Conflict of Interest

- 58.1 Each party warrants that at the date of execution of this Agreement it is not, to the best of its knowledge, aware of any business or personal relationship which may compromise its ability to discharge its obligations under this Agreement in good faith and objectively.
- 58.2 Each party will promptly Notify the other if any conflict of interest described in clause 58.1 arises.

59. Severability

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.

60. Relationship of the Parties

- 60.1 Neither party is –
- (a) the employee, agent, officer or partner of the other party, or
 - (b) authorised to bind or represent the other party.
- 60.2 The Software Provider must ensure its Personnel do not represent themselves as being CASA's Personnel.

61. No effect on Regulated Activities

- 61.1 This clause 61 applies if the Software Provider holds a regulatory authorisation granted by CASA or conducts any activities that are regulated by CASA (**Regulated Activities**).
- 61.2 The Software Provider acknowledges CASA will meet its regulatory function responsibilities separately from, and independently of, the operation of this Agreement.
- 61.3 In performing this Agreement, the Software Provider must not -
- (a) Use CASA Data to derive any benefit in its conduct of Regulated Activities, or
 - (b) make any representation to suggest the Agreement has any effect on its obligations relating to Regulated Activities.

62. Announcements

- 62.1 Subject to clause 62.2, the Software Provider must provide CASA's Representative with four Business Days' Notice before making any Announcement.
- 62.2 If the Software Provider is required by Law or a regulatory body (including a relevant stock exchange) to make an Announcement -
- (a) the requirement to give CASA prior Notice under clause 62.1 does not apply, but
 - (b) the Software Provider must Notify CASA's Representative as soon as practicable after making the Announcement.
- 62.3 In this clause 62, **Announcement** means a public announcement relating to this Agreement or any transaction contemplated by it.

63. Survival

The termination or expiration of this Agreement will not affect the continued operation of:

- (a) the provisions of Part 6, Part 8 or Part 10

- (b) this clause 63, or
- (c) any other provision of this Agreement that by implication from its nature is intended to survive.

64. Governing Law and Jurisdiction

The law of the Australian Capital Territory applies to this Agreement and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that jurisdiction.

65. Counterparts

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

Schedule 1 – Agreement Details

| Description | Clause reference | Details | | | | | | | | |
|---------------------------------------|-----------------------------------|---|------|---------------|-------|----------------|--------------|-----------------------------------|-------|------------------------|
| 1. CASA's details | Schedule 2 | Civil Aviation Safety Authority 16 Furzer Street, Phillip, ACT 2606 ABN: 44 808 014 470 | | | | | | | | |
| 2. Software Provider's details | Schedule 2 | [Insert Software Provider's name, address and ABN] | | | | | | | | |
| 3. Software | Schedule 2 | [Insert title] | | | | | | | | |
| 4. Initial Agreement Period | 1.1 | Four years | | | | | | | | |
| 5. Option Period | 1.2 | One further period of two years | | | | | | | | |
| 6. CASA's Representative | | <table border="1"> <tr> <td>Name</td> <td>[insert name]</td> </tr> <tr> <td>Title</td> <td>RPAS Branch</td> </tr> <tr> <td>Mail address</td> <td>GPO Box 2005 CANBERRA ACT 2601</td> </tr> <tr> <td>Email</td> <td>[insert email address]</td> </tr> </table> | Name | [insert name] | Title | RPAS Branch | Mail address | GPO Box 2005 CANBERRA ACT 2601 | Email | [insert email address] |
| Name | [insert name] | | | | | | | | | |
| Title | RPAS Branch | | | | | | | | | |
| Mail address | GPO Box 2005 CANBERRA ACT 2601 | | | | | | | | | |
| Email | [insert email address] | | | | | | | | | |
| 7. Software Provider's Representative | | <table border="1"> <tr> <td>Name</td> <td>[insert name]</td> </tr> <tr> <td>Title</td> <td>[insert title]</td> </tr> <tr> <td>Mail address</td> <td>[insert mail address]</td> </tr> <tr> <td>Email</td> <td>[insert email address]</td> </tr> </table> | Name | [insert name] | Title | [insert title] | Mail address | [insert mail address] | Email | [insert email address] |
| Name | [insert name] | | | | | | | | | |
| Title | [insert title] | | | | | | | | | |
| Mail address | [insert mail address] | | | | | | | | | |
| Email | [insert email address] | | | | | | | | | |
| 8. Additional insurance | | [Insert details of additional types of insurance the Software Provider must maintain (e.g. personal accident)] | | | | | | | | |
| 9. Public liability insurance | 31.1(a) and 31.2(a) | \$10 million per event | | | | | | | | |
| 10. Professional indemnity insurance | 31.2(b) | \$5 million per event and not less than \$10 million in aggregate | | | | | | | | |

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|--|----------------------------|---|
| 11. Product liability insurance | 31.2(c) | \$5 million per event |
| 12. Additional insurance | 31.1(b) and 31.2(d) | Workers compensation as required by Law |

Schedule 2 – Glossary

| Expression | Meaning |
|---------------------------------|---|
| Access Credentials | has the meaning given at clause 5.3. |
| Advisers | means: (a) the financial or legal advisers of a party, and (b) the respective officers and employees of those financial or legal advisers. |
| Agency | a corporate Commonwealth entity or a non-corporate Commonwealth entity (within the meaning of <i>Public Governance, Performance and Accountability Act 2013</i> (Cth)) |
| Agreement | this agreement between CASA and the Software Provider, including its schedules. |
| Agreement Details | the information contained in Schedule 1. |
| Agreement Period | the Initial Agreement Period plus any extension in accordance with clause 1.2, but subject to earlier termination or expiry in accordance with the provisions of this Agreement. |
| Air Navigation | the process of planning, monitoring or directing the progress of an RPA or aircraft in airspace (including in both controlled and un-controlled airspace) between selected geographic points or over a selected route. |
| API | application program interface |
| Approved Application | software approved by CASA to connect with the RPAS Platform and to access CASA Data |
| Business Day | a day that is not a Saturday or Sunday or a public holiday in the Australian Capital Territory. |
| CASA Approval | means – (a) a Notice issued by CASA through the Onboarding Process that approves the Software to connect with the RPAS Platform and to access CASA Data, or (b) an amended Notice issued by RPAS Branch during the Agreement Period that sets out conditions the Software must comply with in order to remain connected to the RPAS Platform and to access CASA Data. |
| CASA Data | all data and information (including personal information) relating to CASA, and its operations, facilities, customers, Personnel, assets and programs. These data include those obtained from Third Party Data Sources. |
| CASA's ICT Environment | all CASA's information communications technology environment and systems |
| CASA's Operational Requirements | CASA's requirements, as set out in the Operating Rules and the Concept of Operations, for Service Providers approved to interface with the RPAS Platform. |
| CASA's Representative | the person (or a person for the time being occupying that person's position or performing their duties) identified at Item 6 of the Agreement Details. |

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| CASR | the <i>Civil Aviation Safety Regulations 1998</i> (Cth). |
| Civil Aviation Safety Authority (CASA) | the party specified at Item 1. |
| Commercialise | means, in relation to the Software, to exploit, sell, license, hire or offer for sale/hire |
| Concept of Operations | The <i>RPAS Platform Concept of Operations</i> published by CASA. |
| Confidential Information | information provided by one party to another that is by its nature confidential and: (a) is designated by a party as confidential and is described in Schedule 3, or (c) a party knows or ought to know is confidential, but does not include information which is or becomes public knowledge other than by breach of the Agreement or any other confidentiality obligation. |
| Corporations Act | the <i>Corporations Act 2001</i> (Cth). |
| Data Provider | A Third Party that owns or controls a Data Source. Data providers include Geoscience Australia, AirServices Australia, Parks Australia and state/territory emergency services providers. |
| Data Sources | Authoritative data sources that Software Developers are required to access under the Operating Rules. Some of these sources are owned by CASA; others are operated by Data Providers. |
| Development Environment | An environment used by CASA for developing new RPAS Platform capabilities. |
| Essential Eight | the ASD's Essential 8 Mitigation Strategies for mitigating cybersecurity incidents and defending against cyber-attacks, which are available at: https://www.asd.gov.au/publications/protect/essential-eight-explained.htm . |
| Harmful Code | any virus, disabling or malicious device or code, 'worm', 'trojan', 'time bomb' or other harmful or destructive code, but does not include any 'software lock' or other technical mechanism that is included to manage the proper use of any Software. |
| Initial Agreement Period | the period of time, beginning on the Production Date, for which this Agreement is intended to continue, as specified at Item 4. |
| Intellectual Property Rights | all intellectual property rights, including: (a) patents, copyright, rights in circuit layouts, designs, trademarks (including goodwill in those marks), and domain names (b) any application or right to apply for registration of any of the rights referred to in paragraph (a), and (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere, whether or not those rights are registered or capable of being registered. |
| Law | any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a state, territory, the Commonwealth, or a local government, and includes the common law and rules of equity as applicable from time to time. |

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|---|--|
| Loss | liabilities, expenses, losses, damages and costs (including but not limited to legal costs on a full indemnity basis, whether incurred by or awarded against a party). |
| Moral Rights | each and every 'moral right' as defined in the <i>Copyright Act 1968</i> . |
| New Release | software produced primarily to extend, alter or improve the Software (whether or not defects in the Software are also corrected) while still retaining its original purpose. |
| Notice | a notice, demand, consent, approval or communication issued in writing under this Agreement. Notify has a corresponding meaning. |
| Onboarding Process | the process described in CASA's Operational Requirements through which CASA approves applications to connect to the RPAS Platform. |
| Operating Rules | The <i>RPAS Platform Operating Rules</i> published by CASA. |
| Option Period | the period or periods specified at Item 5. |
| Permissions and Automated Approvals Service (PAAS) | A system that automates the application and approval process for RPA airspace authorisation requests for defined locations and altitudes. |
| Personal Information | has the meaning given in the Privacy Act. |
| Personnel | a party's employees, officers, agents and subcontractors. |
| Platform API | an API enabling Approved Applications to interface with RPAS Platform components in order to: (a) access CASA Data, and (b) facilitate functions specified in CASA's Operational Requirements. |
| Privacy Act | the <i>Privacy Act 1988</i> (Cth.). |
| Problem | a fault, failure or difficulty with the Software. |
| Production Date | The date on which CASA first allows the Software to connect to the Production Environment. |
| Production Environment | The live RPAS Platform environment. The Software Provider can connect to this environment after meeting CASA's approval requirements. |
| Related Body Corporate | has the meaning given at section 50 of the Corporations Act. |
| Remotely Piloted Aircraft (RPA) | commonly known as drones. |
| Remotely Piloted Aircraft Systems (RPAS) | also known as Unmanned Aerial Systems. |
| RPA Operator | A person or organisation operating, or intending to operate, RPA in Australia. RPA Operators are distinguished by their operation types, as described in the Concept of Operations. |

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|------------------------------------|--|
| RPAS Branch | CASA's branch responsible for regulating the safety of RPA and RPAS operations. |
| RPAS Platform | an online platform designed to allow CASA to deliver RPAS-related safety information and regulatory services to RPAS operators. |
| RPAS Platform Developer | Wing Aviation LLC |
| Service Levels | any standards of service (e.g. response/resolution times) the Software Provider must achieve in providing Support Services, as set out in a CASA Approval. |
| Software | a product (including the source code and any Software API or enhancements) specified at Item 3 that interfaces with the RPAS Platform and incorporates CASA Data. |
| Software API | an API enabling a Third Party Developer's product to interface with the Software in order to access CASA Data. |
| Software Developer | a service provider designing, distributing or operating an Approved Application. |
| Software Provider | the party specified at item 2 and includes its Personnel. |
| Software Provider's Representative | the person identified at Item 7 of the Agreement Details. |
| Staging Environment | An RPAS Platform environment used by Software Providers to develop and test the integration of their Software with the RPAS Platform. CASA will also conduct testing of new applications or enhancements within this environment. |
| Support Services | the services the Software Provider must provide to support Users, as set out at clause 25. |
| System | means, in relation to a system of the Software Provider, a system on which CASA Data is stored or processed. |
| Third Party | a person other than the Software Provider or CASA. |
| Third Party Developer | A User authorised by the Software Provider to access the Software in order to develop a product that is not an Approved Application. |
| Update | software which has been produced primarily to overcome defects in, or to improve the operation of, the Software without significantly altering the Software Specifications whether or not the Software has also been extended, altered or improved by providing additional functionality or performance enhancement. |
| Use | in relation to a right of use, includes a right to reproduce, adapt, modify and communicate. |
| User | a user authorised by the Software Provider to access the Software. |

Schedule 3 – Designated Confidential Information

1. Confidential information of CASA (clause 41)

| Item | Period of Confidentiality |
|-----------------------|---|
| [Insert item details] | [Insert period of confidentiality (e.g. Agreement Period plus three years)] |

2. Confidential information of the Software Provider (clause 41)

| Item | Period of Confidentiality |
|-----------------------|---|
| [Insert item details] | [Insert period of confidentiality (e.g. Agreement Period plus three years)] |

Signing Page

Executed as a Deed.

Software Provider's execution

[Select an execution clause from the options depending on Software Provider's corporate structure.]

[Option A: Australian company executing via its authorised representative]

| | | |
|--|--|--|
| Signed, sealed and delivered by [insert Software Provider's name] ABN [Insert Software Provider's ABN] pursuant to section 126 of the Corporations Act | | |
| Signature of witness | | Signature of authorised representative |
| Name of witness – please print | | Name of authorised representative |
| Date | | |

[Option B: Australian company with two directors, or a director and secretary]

| | | |
|---|--|---|
| Signed, sealed and delivered by [insert Software Provider's name] ABN [Insert Software Provider's ABN] pursuant to section 127(1) of the Corporations Act | | |
| Signature of director | | Signature of director/secretary |
| Name of director – please print | | Name of director/secretary – please print |
| Date | | |

[Option C: Australian Company with sole director]

| | | |
|--|--|--|
| <p>Signed, sealed and delivered by <i>[insert Software Provider's name]</i> ABN <i>[Insert Software Provider's ABN]</i> pursuant to section 127 of the Corporations Act in the presence of</p> | | |
| <p>Signature of witness</p> | | <p>Signature of sole director/secretary</p> |
| <p>Name of witness - please print</p> | | <p>Name of director/secretary – please print</p> |
| <p>Date</p> | | |

[Option D: signature by authorised representative]

| | | |
|--|--|---|
| <p>Signed, sealed and delivered by <i>[insert Software Provider's name]</i> by the party's authorised representative pursuant to power of attorney registered No who states that no notice of revocation of the power of attorney has been received, of in the presence of:</p> | | |
| <p>Signature of witness</p> | | <p>Signature of authorised representative</p> |
| <p>Name of witness - please print</p> | | <p>Name of authorised representative</p> |
| <p>Date</p> | | |

CASA's execution

| | | |
|---|--|---------------------------------|
| Signed, sealed and delivered by the Civil Aviation Safety Authority ABN 44 808 014 470 by its duly authorised delegate in the presence of: | | |
| Signature of witness | | Signature of delegate |
| Name of witness - please print | | Name of delegate – please print |
| Date | | Position of delegate |