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1) LICENCE

1.1) Subject to any third party rights and the Licensee paying the Fees and otherwise complying with this Agreement, the Licensor grants the Licensee a non-exclusive, non-transferable licence for the Term to install and operate the Software for the Licensee's internal business purposes within the following limits:

(a) The Licensee may install one copy of the Software on one Computer for the use of one person at a time. In these circumstances, if the Software allows, more than one copy of the Software may be run on the Computer at a particular time provided that all running copies are used and operated and predominantly viewed by the same person.

or

(b) The Licensee may install and run one copy of the Software on one Computer and direct the display from the running Software to one or more display devices designed to be viewed by many people, such that no window from the running Software is displayed on more than one display device at any particular point in time.

1.2) For clarity:

- (a) the Licensee must not use the Software on behalf of third parties;
- (b) the Licensee must not make the Software available for simultaneous use by multiple users over a network;

- (c) the Licensee must not deploy the Software such that any window produced by a single running instance of the Software can be displayed on more than one display device at any particular point in time;
 - (d) the Licensee must not resupply the Data to any third party in any form other than that obtained by extracting the Data from the Software using the graphical user interface of the Software; and
 - (e) the licence under clause 1.1 does not include the right to sublicense to third parties.
- 1.3) The Licensee acknowledges nothing in this Agreement is intended to give the Licensee any Intellectual Property Rights or other rights in the Software or any other material.
- 1.4) The Licensee acknowledges and agrees that the Software is not error free, and the Licensor makes no representation and gives no warranty that the Software will function in any particular way.
- 1.5) Except where a current trial period under clause 3.4 applies, the Licensee acknowledges that the Licensee has had an opportunity to trial and assess the suitability of the Software for the Licensee's purposes prior to entering into this Agreement.
- 1.6) The Licensee must not remove the product name, product logo, Licensor's name, Licensor's logo, or any URLs from the Software, or from any reports or screenshots or images obtained using the Software.
- 1.7) The Licensee authorizes the Licensor to monitor the Licensee's use of the Software and to use any data gathered for the purposes of:
- (a) Ensuring compliance with this Agreement;
 - (b) Ensuring that the Licensee has installed and is using the latest version(s) of the Software;
 - (c) Assisting the Licensee identify and resolve problems or issues with the software;
 - (d) Understanding the Licensee's usage of the software to inform decisions about modifications or additions to the software; and
 - (e) Informing the Licensee about additional products or services which may be relevant to the Licensee.
- 1.8) The Licensor must not disclose any data collected pursuant to clause 1.7 to any third party (other than contractors performing services for the Licensor)_without the written permission of the Licensee.

2) SUPPORT

- 2.1) The Licensee is responsible for installing the Software.

- 2.2) The Licensor may make updates to the Software or new versions of the Software available from time to time.
- 2.3) The Licensor is not obliged to support and may disable any version of the Software that has been superseded by an Update by 90 days or more.
- 2.4) The Licensor will provide the Licensee with 20 business days written notice prior to ending support for or disabling a superseded version of the Software.
- 2.5) The Licensor must use commercially reasonable endeavours to provide email and telephone support services to the Licensee between 9am and 5pm (AEST) on business days in Brisbane.
- 2.6) The Licensee acknowledges that an Update may alter the functionality of the Software.
- 2.7) The Licensee must promptly report any error in the Software to the Licensor, and must cooperate with the Licensor in connection with the support services contemplated by clause 2.5.
- 2.8) The Licensor makes no representation and gives no warranty that use of the Software will not infringe the Intellectual Property Rights of any third party.
- 2.9) The Licensee assigns the Intellectual Property Rights (including future Intellectual Property Rights) in any suggestion given by the Licensee to the Licensor in connection with the Software (including in suggestions for the improvement or modification of the Software).

3) FEES

- 3.1) Unless this licence is for a trial period as contemplated by clause 3.4 (in which case no Fees are payable), the Fees are payable on the date the Licensee first accesses or downloads the Software.
- 3.2) The Licensee must pay the Fees to the Licensor within 14 days of the Licensor issuing the Licensee with an invoice for the Fees.
- 3.3) If the Licensor provides any services to the Licensee other than the services contemplated by clause 2.5, the Licensee must pay the Licensor's then standard rates for those services.
- 3.4) If the Licensor notifies the Licensee in writing that this licence is for a trial period specified by the Licensor, then no Fees are payable unless the Licensee elects to enter into a further licence agreement at the end of that trial period.

- 3.5) If the Licensor offers more than one model of the Software, the parties may agree to upgrade the model of the Software for which the Licensee is licensed during the Term, in which case the Licensee must pay the fees for that upgrade nominated by the Licensor within 14 days of the Licensor providing the Licensee with an invoice for those fees.

4) REVERSE ENGINEERING AND CONFIDENTIALITY

- 4.1) Although copyright in the Software is not infringed in the circumstances contemplated by sections 47D, 47E and 47F of the *Copyright Act 1968* (Cth), the Licensee agrees not to:
- (a) decompile, disassemble or reverse engineer the whole or any part of the Software;
 - (b) make any modification to the Software; or
 - (c) merge all or any part of the Software with any other software.
- 4.2) The Licensee must not use or permit a third party to use the Software to develop a competing product.
- 4.3) The Licensee must not disclose the Software or any other material provided by the Licensor to the Licensee to any third party (unless that part of the Software or material is in the public domain for a reason other than a breach of this agreement).

5) TERM AND TERMINATION

- 5.1) If this Agreement is for a trial period under clause 3.4, then this Agreement commences on the earlier of the submission of an Order to the Licensor by the Licensee, or the Licensee's first download or use of the Software and continues for the trial period specified by the Licensor unless terminated earlier under this clause 5.
- 5.2) If this agreement is not for a trial period under clause 3.4, then this Agreement commences on the earlier of the submission of an Order to the Licensor by the Licensee or the Licensee's first download or use of the Software and continues for the Licence Period unless terminated earlier under this clause 5.
- 5.3) If a party commits a material breach of this agreement and fails to remedy that breach within 30 days of receiving notice from the other party requiring it to do so, then the other party may terminate this agreement by written notice to the party in breach, in which case this agreement will terminate immediately.
- 5.4) The Licensee expressly waives any rights it may have to terminate this agreement except as contemplated by this clause 5.
- 5.5) The Licensor may suspend the Licensee's access to the Software immediately if the Licensor suspects that the Licensee is in breach of this agreement.

- 5.6) The Licensee acknowledges that the Licensor may terminate this agreement under this clause 5 without considering the impact of the termination on the Licensee.
- 5.7) On termination of this agreement:
- (a) the licence granted to the Licensee under clause 1.1 ceases;
 - (b) the Licensee must not use the Software;
 - (c) accrued rights or remedies of a party are not affected; and
 - (d) no refund will be payable by the Licensor to the Licensee for any Fees or other amounts paid in advance.
- 5.8) Clauses 5.7 and 6 survive termination of this agreement.

6) LIABILITY AND INDEMNITY

- 6.1) Subject to clauses 6.4, 6.6, and 6.11, any liability of the Licensor for any loss or damage, however caused (including, without limitation, by the negligence of the Licensor), suffered by the Licensee in connection with this agreement is limited at the election of the Licensor, to:
- (a) AUD\$100; or
 - (b) if the loss or damage relates to the Software or particular services, resupply of the Software or those services.
- 6.2) The limitation set out in clause 6.1 is an aggregate limit for all claims, whenever made.
- 6.3) For clarity, and without limiting clause 6.1, the parties agree that clause 6.1 is to apply in connection with a breach of this agreement, anticipated breach of this agreement or other conduct regardless of the seriousness or nature of that breach, anticipated breach or other conduct.
- 6.4) Subject to clause 6.6, the Licensor is not liable for any Consequential Loss however caused (including, without limitation, by the negligence of the Licensor) suffered or incurred by the Licensee in connection with this agreement.
- 6.5) Except as contemplated by clause 6.6, nothing in this agreement is intended to limit any rights of the Customer under the *Competition and Consumer Act 2010* (Cth).
- 6.6) If the *Competition and Consumer Act 2010* (Cth) or any other legislation provides that there is a guarantee in relation to any good or service supplied by the Licensor in connection with this agreement and the Licensor's liability for failing to comply with that guarantee cannot be excluded but may be limited, then clauses 1.4, 6.1, 6.4 and 6.7 do not apply to that liability and instead the Licensor's liability for such failure is limited to (at the Licensor's election):
- (a) in the case of a supply of goods, the Licensor replacing the goods or supplying equivalent goods, repairing the goods, paying the cost of replacing the goods

- or of acquiring equivalent goods, or paying the cost of having the goods repaired; or
- (b) in the case of a supply of services, the Licensor supplying the services again or paying the cost of having the services supplied again.
- 6.7) Subject to clause 6.5, the Licensee is liable for, and indemnifies the Licensor from and against, all loss or damage (including, without limitation, legal costs) however caused suffered or incurred by the Licensor in connection with:
- (a) any breach of this agreement by the Licensee;
 - (b) any act or omission of the Licensee, including, without limitation, any illegal or negligent act or omission of the Licensee;
 - (c) any claim or threatened claim by a third party against the Licensor in connection with the use by the Licensee of the Software;
 - (d) any exercise of the Licensee's rights under this agreement; or
 - (e) any act or omission of the Licensee or any person acting or purporting to act on behalf of the Licensee.
- 6.8) Each indemnity contained in this agreement is a continuing obligation notwithstanding:
- (a) any settlement of account; or
 - (b) the occurrence of any other thing,
- and it is not necessary for the Licensor to incur expense or make payment before enforcing or making a claim under an indemnity.
- 6.9) If the Licensor notifies the Licensee in writing that particular Software is a 'preview' or a 'beta' version, or if the Software is otherwise identified as a 'preview' or a 'beta' version, then the Licensee:
- (a) must not use the Software in a production environment;
 - (b) acknowledges that use of the Software may result in loss of data and damage to the Licensee's hardware and software; and
 - (c) agrees that the Licensor is not liable for any loss or damage (however caused, including by the negligence of the Licensor) in connection with the Licensee's use of the Software.

7) AUTHORISED USE AND RELIANCE

- 7.1) The Licensee acknowledges that the Software will not function without access to the internet.
- 7.2) The Licensee must not rely on the Data, and must verify the Data by reference to an independent source before making a decision on the basis of the Data.
- 7.3) The Licensee must comply with all applicable laws and ensure that its employees, agents and independent contractors comply with all applicable laws when using the Software.

8) COSTS, STAMP DUTY AND GST

- 8.1) Each party must meet or pay its own legal costs and disbursements in respect of the preparation, negotiation and execution of this agreement.
- 8.2) The Licensee must pay all stamp duty (including penalties and interest) assessed or payable in connection with this agreement.
- 8.3) The Licensee is responsible for and must pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this agreement.
- 8.4) If a Supply made under or in connection with this agreement is a Taxable Supply, then at or before the time the consideration for the Supply is payable:
 - (a) the Recipient must pay the Supplier an amount equal to the GST for the Supply (in addition to the consideration otherwise payable under this agreement for that Supply); and
 - (b) the Supplier must give the Recipient a Tax Invoice for the Supply.
- 8.5) For clarity, the GST payable under clause 8.4 is correspondingly increased or decreased by any subsequent adjustment to the amount of GST for the Supply for which the Supplier is liable, however caused.
- 8.6) Where a Supply made under or in connection with this agreement is a Progressive or Periodic Supply, clause 8.4 applies to each component of the Progressive or Periodic Supply as if it were a separate Supply.
- 8.7) Capitalised terms used in this clause 8 that are not defined in this agreement have the meaning given in the *New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

9) GENERAL

- 9.1) This agreement is subject to the laws of Queensland and the Commonwealth of Australia.
- 9.2) The parties irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland.
- 9.3) In the interpretation of this document, no rule of construction applies to the disadvantage of the party preparing the document on the basis that it put forward this document or any part of it.
- 9.4) The Licensee must not assign, in whole or in part, or novate the Licensee's rights and obligations under this agreement without the prior written consent of the Licensor.

- 9.5) The Licensor may assign the Licensor's interest under this agreement.
- 9.6) Each provision of this agreement will be read and construed as a separate and severable provision or part and if any provision is void or otherwise unenforceable for any reason then that provision will be severed and the remainder will be read and construed as if the severable provision had never existed.
- 9.7) This agreement represents the parties' entire agreement, and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing, relating to its subject matter.
- 9.8) Where this agreement contemplates that the Licensor may consent to, elect, determine, approve, nominate, decide or consider any matter or thing, the Licensor may provide such consent or make such election, determination, approval, nomination, decision or consideration in its absolute discretion and conditionally or unconditionally without being required to give reasons or act reasonably unless this agreement expressly requires otherwise.
- 9.9) The Licensee acknowledges and agrees that the Licensor may publically disclose (including on the Licensor's website and other advertising material) that the Licensee is a customer of the Licensor.

DEFINITIONS

In this document:

Term	Definition
Computer	means a computing device (either physical or virtual) that runs its own operating system and is capable of running the Software. For clarity: <ul style="list-style-type: none">(i) a hardware partition is considered to be a computer;(ii) a blade is considered to be a computer; and(iii) a virtual computer created using virtualisation software and running on a physical hardware system is considered to be a computer.
Consequential Loss	means consequential loss, indirect loss, loss of revenues, loss of reputation, loss of data, loss of profits, loss of actual or anticipated savings, loss of bargain, lost opportunities, including, without limitation, opportunities to enter into arrangements with third parties and loss or damage in connection with claims against the Licensee by third parties.
Data	means information obtained by the Licensee through the Software.
Fees	means the fees specified on the Order, the additional fees contemplated by clauses 3.3 and 3.5

Term	Definition
Intellectual Property Rights	means all industrial and intellectual property rights, both in Australia and throughout the world, including, without limitation, any copyright, trade or service marks, patents, registered and unregistered trade marks, registered designs, trade secrets, knowhow, moral rights, rights in relation to semiconductors and circuit layouts, formulations, components, concentrations, protocols, trade, business or company name, indication or source or appellation of origin, or other proprietary right, or right to registration of such rights;
Licence Period	means the Licence Period specified in the Order.
Licensee	means the purchaser of the licence rights granted by this Licence Agreement as identified on the Order.
Licensor	means Global-Roam Pty Ltd ACN 091 533 587.
Order	means either: <ul style="list-style-type: none">(i) an order for the Software submitted by the Licensee using the Licensor's on-line ordering process or <ul style="list-style-type: none">(ii) a written order for the Software (in either electronic or physical form) submitted to the Licensor by the Licensee.
Software	means the Global-Roam product(s) identified in the Order which include desktop application software and any corresponding end-user documentation (included on-line or electronic documentation) supplied by the Licensor, as well as any Updates to these products that the Licensor may make available to the Licensee during the Term.
Supplier	means the entity making the Supply.
Supply	has the meaning given in the <i>New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Term	means the term contemplated by clause 5.1.
Update	means an update contemplated by clause 2.2.