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1. Grant of License.

- 1.1 “Yellowfin” refers to Yellowfin International Party Ltd and “you” or “Licensee” refers to the individual installing or using the Product, if you are acting as an individual; otherwise, “you” or “Licensee” means the business or other entity for which you are obtaining the Product. Subject to this Agreement, and payment of all applicable license fees, Yellowfin grants you a non-exclusive, non-transferable, personal, limited license to use the software for which valid control codes have been issued by Yellowfin, identified in: (i) the written or electronic order document, form or invoice provided or accepted by Yellowfin (each an “Order”); or (ii) the installation procedure (a “Product”), solely for your internal business purposes.

Any Product update, patch, and/or new release (each an “Update”) replaces part or all of a Product or Update previously released and terminates the license to such previously licensed Product or Update to the extent replaced by the Update. Each Update is subject to the terms and conditions of the license agreement accompanying the Update or, if no license agreement accompanies the Update, to the terms and conditions of this Agreement.

Yellowfin grants you a non-exclusive, non-transferable, limited, personal license (without the right to sublicense) to use the written technical materials and end user instructions, if any, distributed with the Product (the “Documentation”).

- 1.2 Except for the license rights granted herein, Yellowfin and/or its licensors at all times retain all right, title, and interest in the Product and the Documentation. The Product is licensed, not sold, for use only under the terms of this Agreement, and Yellowfin reserves all rights not expressly granted to you.
- 1.3 The term of this license is set forth on the Order, unless otherwise terminated in accordance with this Agreement.
- 1.4 You agree to pay the Product fees listed in the Order. You also agree to pay any applicable value-added taxes or other applicable taxes, tariffs or withholding taxes which the relevant authorities require you to pay. All fees are exclusive of any such taxes or tariffs unless expressly agreed by Yellowfin.
- 1.5 **Product Will Time Out After Forty Five Days.** Yellowfin will first issue you a temporary Software License Key, which key will time out and stop the Product from functioning after forty-five (45) days. Provided no amount due is outstanding, and you are not in default under this Agreement, Yellowfin will send you a permanent Software License Key before the temporary key expires.
- 1.6 For Product shipped via electronic delivery, delivery is deemed complete, FOB shipping point, when the Product is made available at the electronic software download (“ESD”) site specified by Yellowfin and Yellowfin e-mails or otherwise issues you instructions to access and download the Product. For Product you have licensed under a software as a service (“SAAS”) delivery method, delivery is deemed complete when Yellowfin or a third party supplier have issued you instructions to access and use the Product.

2. License Restrictions.

- 2.1 Your use of the Product and Documentation is limited to internal use within your organization. The Product and Documentation may not be used by your subsidiaries, affiliates, or any other third parties unless specifically agreed in writing by Yellowfin.

- 2.2 The license model for the Product is set forth in the Order and described in Exhibit A. Third party rights and any additional licensing restrictions are set forth or referenced in Exhibit A.
- 2.3 You agree not to copy (except as provided in Section 7.2), disassemble, reverse engineer, decompile, modify or create derivative works of the Product or the Documentation to the extent that such restriction is not prohibited by applicable mandatory law.
- 2.4 You may not sublicense, sell, encumber, outsource, or grant any other rights in the Product and/or the Documentation, or allow the Product or Documentation to be possessed by another party.
- 2.5 You agree that you will not import, export or re-export the Product, including technical data, to any country, person, entity or end user in violation of U.S.A. export control laws, regulations or restrictions.
- 2.6 If you are acquiring the Product by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then the U.S. Government's rights in the Product will be only as set forth herein. The Product and related Documentation is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software Documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Product and such Documentation with only those rights set forth herein. Contract/Manufacturer is: Yellowfin International Party Ltd, Level 46, 360 Elizabeth Street, Melbourne3000, Australia.
- 2.7 You may not assign this Agreement without the prior written consent of Yellowfin. However, you may assign this Agreement, in whole, to any successor in interest by operation of law, or pursuant to a merger, corporate reorganization, or sale of all or substantially all of your business.
- 2.8 You may not disclose benchmark test results for the Product without the written consent of Yellowfin.
- 2.9 If, as part of the Product, You have access to Google Maps/Google Earth API's: (i) You agree that all such use shall be pursuant to the terms and conditions of this Agreement, together with Google's Terms of Service which may be found at: www.google.com/intl/en/policies/terms (or such successor URLs that Google may designate from time to time), together with any changes to such terms as Google may make from time to time.

3. Installation and Use

You may install and/or access and use the Product only in the configuration and for the number of licenses you acquire. Individual licenses may not be shared for use on different computers or servers. Yellowfin may control the number and type of licenses and the use of the Product by key codes. If a license key or other security device is provided with the Product, you may not share or transfer the security device to any other third party.

4. Consent to use of data

You agree that Yellowfin and its authorised representatives may collect and use technical information you provide as a part of support services related to the Product.

5. Limited Warranty.

- 5.1 Yellowfin warrants, for a period of ninety (90) days from the date of the Order (the "Warranty Period"), that the Product will conform in all material respects to the Documentation. As the sole and exclusive remedy for any breach of this warranty, Yellowfin will repair or replace the Product if the failure is reported during the Warranty Period. If Yellowfin reasonably determines that repair or replacement is not economically or technically feasible, Yellowfin may terminate this Agreement and provide you a full refund of the license fee paid with respect to the Product.
- 5.2 Where you have licensed and paid for use of the Product on a subscription basis, or if you order and pay for support, support provided will be in accordance with Yellowfin's then current and applicable support policies. Yellowfin's current support policies are listed at www.yellowfinbi.com.

5.3 Yellowfin does not warrant that the Product will meet your requirements or that operation of the Product will be uninterrupted or error free. It is your responsibility to select the correct Product to achieve your intended results and for any results obtained with the Product. Yellowfin disclaims all warranties if the Product is not properly set up and configured.

5.4 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, YELLOWFIN, ITS LICENSORS AND THEIR RESPECTIVE SUPPLIERS MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, RELATING TO THE PRODUCT, OR ANY SERVICES OR UPDATES. ANY UPDATES OR SERVICES ARE DELIVERED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YELLOWFIN DISCLAIMS ALL IMPLIED WARRANTIES AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT WITH RESPECT TO THE PRODUCT, OR ANY SERVICES OR UPDATES. The Product is not fault tolerant and is not designed, manufactured or intended for use in hazardous environments requiring fail-safe performance (including, without limitation, the design, construction, operation or maintenance of any nuclear facility; direct life support machines; weapon systems; or control of aircraft, air traffic, aircraft navigation or aircraft communications), in which the failure of the Product could lead directly or indirectly to death, personal injury or severe physical or environmental damage. Yellowfin for itself and on behalf of its licensors and their respective suppliers disclaims any express or implied warranty of fitness of the Product for any such high risk uses.

6. Intellectual Property Ownership and Indemnity.

6.1 You agree that Yellowfin owns all intellectual property rights in: (a) the Product; and (b) all amendments, enhancements and modifications of the Product, including any created solely by Yellowfin or as a result of collaboration with you. You further agree that Yellowfin is not bound by any duty of confidentiality with respect to any such amendments, enhancements or modifications.

6.2 Yellowfin will defend, indemnify and hold you harmless from all costs and reasonable expenses awarded by a court or agreed to in settlement which directly result from any third party claim that a Product infringes either a valid: (a) Australia or United States patent; or (b) copyright of a country that is a party to the Agreement for Trade Related Aspects of intellectual Property Rights ("TRIPS") but only if you notify Yellowfin promptly in writing of such claim and give Yellowfin sole control of the defense of any such claim and all negotiations for its settlement or compromise. You agree to reasonably cooperate with Yellowfin in the defense, settlement or compromise of any claim. In the event that a final injunction is obtained against your use of the Product, if Yellowfin reasonably believes that your use of the Product could be enjoined, or if in Yellowfin's opinion the Product is likely to become the subject of a successful claim of infringement, Yellowfin will: (i) obtain the right for you to continue using the Product, (ii) modify or replace the Product so that it becomes noninfringing or, in the event neither of the previous two options are commercially reasonable for Yellowfin, (iii) terminate this Agreement and refund: (a) if you are licensed to use the Product on a subscription basis, any prepaid but unused fees as of the date of termination; or (b) for any other license type, the amount you paid for the Product less an amount for depreciation determined on a straight-line five-year depreciation basis with a commencement date as of the date of the Order for the Product. Yellowfin will have no liability for a claim if the claim is based on: (A) your use of the Product more than thirty (30) days after Yellowfin has notified you of (i), (ii) or (iii), above or (B) the version of the Product you are using is not the current release version of the Product.

6.3 Yellowfin will have no liability under this Section 6 to the extent that any infringement or claim is based upon: (i) the combination, operation or use of the Product with equipment or software not supplied by Yellowfin, (ii) your failure to comply with designs, specifications or instructions provided by Yellowfin, (iii) your use of the Product in an application or environment for which it was not designed or not contemplated, (iv) modifications made by anyone other than Yellowfin, or (v) use of the Product by users not permitted by this Agreement.

6.4 THE FOREGOING INDEMNIFICATION PROVISIONS STATE THE ENTIRE LIABILITY OF YELLOWFIN AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

7. Limitation of Liability.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LIABILITY OF YELLOWFIN, IF ANY, FOR DAMAGES RELATING TO ANY PRODUCT, UPDATE AND/OR SERVICES IS LIMITED TO THE ACTUAL AMOUNTS YOU PAID FOR THE PRODUCT, UPDATE AND/OR SERVICES. YELLOWFIN'S LICENSORS AND THEIR SUPPLIERS HAVE NO LIABILITY TO YOU FOR ANY DAMAGES. IN NO EVENT WILL YELLOWFIN, ITS LICENSORS, OR ANY OF THEIR RESPECTIVE SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT OR DATA, OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY COMMERCIAL DAMAGES OR LOSSES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCT, ANY UPDATE, AND/OR ANY SERVICES, EVEN IF YELLOWFIN, ITS LICENSORS AND/OR ANY OF THEIR RESPECTIVE SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. EACH EXCLUSION OR LIMITATION IS INTENDED TO BE A SEPARATE AND SEVERABLE EXCLUSION.

8. Audit Rights.

Yellowfin may install and use automated license tracking, management and/or enforcement solutions with the Products, which you may not disrupt or alter. You agree to maintain books and records in connection with this Agreement and your use of the Product and any Updates and/or services provided by Yellowfin. Such books and records shall include at a minimum the number of licenses you purchased and the number you are using. At its expense and with reasonable written notice, Yellowfin or a third party appointed by Yellowfin may audit the books, records, and if necessary, the systems on which the Product or any Update is installed for the sole purpose of ensuring compliance with the terms of this Agreement. Yellowfin will have the right to conduct follow-up audits as necessary. All audits shall be conducted during regular business hours at your offices and will not unreasonably interfere with your activities. Yellowfin will treat all such records and books as confidential information. If any audit reveals that you have underpaid license or support fees, you agree to pay for the underpaid fees based on Yellowfin list prices in effect at the time the audit is completed. If the underpaid fees are in excess of five percent (5%) of the fees you have previously paid, then you agree to pay Yellowfin's reasonable costs of conducting the audit and enforcement of this Agreement.

9. Termination.

- 9.1 Yellowfin may terminate this Agreement by written notice if you default in the performance of this Agreement and fail to cure the default to the reasonable satisfaction of Yellowfin within fifteen (15) days after such notice. This remedy shall not be exclusive and shall be in addition to any other remedies which Yellowfin may have under this Agreement or otherwise.
- 9.2 Any attempt to transfer or assign this Agreement or the licenses granted under this Agreement in violation of Section 2.7 above or as a result of bankruptcy, insolvency, or liquidation or due to an assignment of your assets for the benefit of creditors will be void and this Agreement and the licenses granted under this Agreement shall automatically terminate without further notice.
- 9.3 Within ten (10) days of the date of expiration or termination of this Agreement, you agree to destroy all copies of the Product, Updates and Documentation and, if requested by Yellowfin, certify in writing that you have done so.

10. Miscellaneous.

- 10.1 THIS AGREEMENT, INCLUDING ANY EXHIBITS, LICENSE ADDENDUM(S) AND ORDER DOCUMENTS, CONSTITUTES THE COMPLETE AGREEMENT BETWEEN YOU AND YELLOWFIN WITH RESPECT TO THE PRODUCT AND SUPERSEDES ANY OTHER AGREEMENT, PROPOSAL, COMMUNICATION OR ADVERTISING, ORAL OR WRITTEN, SIGNED OR UNSIGNED. To the extent there are any terms and conditions contained in any purchase order or other documentation you supply, such terms and conditions are deemed stricken and the terms and conditions of this Agreement shall govern. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect. This Agreement may not be modified or amended except in a writing executed by both you and Yellowfin.
- 10.2 **English.** This Agreement has been drawn up in English at the express wish of the parties. Le présent contrat a été rédigé en anglais à la demande expresse des parties. Any translation of this Agreement is done for local requirements and, in the event of a dispute between the English and any non-English version, the English version of this Agreement shall govern.

10.3 Except as otherwise expressly set forth herein, this Agreement is governed by the laws of Victoria, Australia, without regard to the provisions of any state Uniform Computer Information Transactions Act or similar federal, state, local or foreign laws, regulations or conventions.

10.4 Failure or delay on the part of either party to exercise any right, power, privilege or remedy hereunder will not constitute a waiver thereof. A waiver of default shall not operate as a waiver of any other default or of the same type of default on future occasions.

10.5 The parties expressly disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods.

EXHIBIT A

LICENSE MODELS AND DEFINITIONS:

The license model for the Product is set forth in the Order. The description of each Yellowfin license model is set forth below, along with any applicable definitions.

Definition: "Deployment" means one installation within a single or clustered environment.

Named User License: A Named User License grants you the right to designate a specific individual (a "Named User") to access and use the Product or access and use an application, which can access the Product. You must be able to identify and count each Named User. Sharing of a Named User License by more than one individual is expressly prohibited. Named User License(s) are assigned to a single Deployment and may not be shared among different Deployments. A license is required by users for both direct and indirect (pooled) access to the Product, excluding output files generated by the Product and stored externally to the Yellowfin repository. A Named User does not have to be logged on to the Product to be counted as a Named User. A Named User License may be transferred from one user to another provided that the original user is no longer permitted access to or use of the Product. The foregoing transfer right shall not affect the assignment prohibition set forth in Section 2.9 of this Agreement.

Processor or CPU License: When the Product is licensed on a Processor basis, the aggregate number of central processing units ("Processors") running any Product components(s) may not exceed the number of Processors licensed. A multi-core chip Processor with N processor cores shall be counted as N Processors. Additional CPU License(s) are required for each CPU that runs the Product.

Concurrent User License: When the Product is licensed on a Concurrent User Basis, each individual user need not be specifically identified as the holder of a license. Sharing the license by one or more users is permitted, provided that the number of users accessing or using the Product at any one time does not exceed the number of Concurrent User licenses purchased. Concurrent User Licenses are assigned to a single Deployment and may not be shared among different Deployments. A license is required by users for both direct and indirect (pooled) access to the Product, excluding output files generated by the Product and stored externally to the Yellowfin repository.

Restricted License: If you acquired the Product bundled or otherwise provided in combination with or for use with a third party product ("OEM Application"), you have acquired a Restricted License. Your permitted use of the Product will be restricted to the host application or service and its data structures, and you may not use the Product apart from the host application or service or on a stand-alone basis or in connection with other software applications or services. If the OEM Application requires the use of a data mart or data warehouse, you may use the Product with the data mart or data warehouse only to access data created or processed by the OEM Application.

Server CPU License: When the Product is licensed on a Server CPU basis it is licensed on a Processor core basis. The Product may be loaded onto a single computer with up to eight (8) Processors or CPUs. A multi-core chip processor with N processor cores shall be counted as N Processor cores.

Developer License: A Developer License limits your access and use of the Product to internal application development and support purposes only. If the license is for components of the Product only, then such right is limited to those components. You are further subject to the license terms of the appropriate license model for the Product set

forth in this Exhibit A. A Developer License may not be sold, transferred, and may not be used in a production environment, as part of a backup environment or as a failover environment.

Evaluation License: An Evaluation License may be used for the sole purpose of Product demonstration or evaluation and may not be used for or in conjunction with the development or Deployment of the Product. Under an Evaluation License, the Product is provided without warranty on an “as is” basis. You are further subject to the license terms of the appropriate license model for the Product set forth in this Exhibit A. An Evaluation License may not be transferred, and may be terminated by Yellowfin at any time.

Subscription License: When the Product is licensed on a Subscription basis, you are granted a non-exclusive and non-transferable license to use the Product for a term, the length of which is set forth in the Order (the “Subscription Term”). Unless earlier terminated as provided in this Agreement, the Subscription Term may not be terminated and all subscription fees are non-refundable. The Subscription Term may be renewed annually at Yellowfin’s then current rate or such other term as mutually agreed by the parties. You may only use the Product through the date for which you have paid all applicable fees. Any rights you may have to use the Product cease immediately when payments are no longer current, and you agree, at such time, to immediately stop all use of the Product, and return all copies of the Product and any Documentation to Yellowfin, and Yellowfin will have no further obligation to you. As long as applicable fees are current, Yellowfin will provide you with updates and upgrades which are generally commercially available, and will use commercially reasonable efforts to provide support and maintenance to you consistent with Yellowfin’s then current support and maintenance policies which are listed at www.yellowfinbi.com.

THIRD PARTY TERMS AND RESTRICTIONS:

The Product may contain or be accompanied by certain third-party components that are subject to additional restrictions. These components, if any, are identified in, and subject to, special license terms and conditions set forth in the Documentation, the “[readme].txt” file, the [notices.txt] file, or another electronic file accompanying the Product (“Special Notices”). The Special Notices include important licensing and warranty information and disclaimers. In the event of conflict between the Special Notices and the other portions of this Agreement, the Special Notices will take precedence (but solely with respect to the third party component(s) to which the Special Notice relates).