

1. Terms of Service

- (a) These terms and conditions (**Terms**) govern the terms on which we will licence the Software, supply the Hardware and provide the Services to you, and constitutes a binding contract between you (**Customer or you**) and Stealth Connect Pty Ltd ACN 648 236 042 (**Stealth Connect, us or we**).
- (b) If you are agreeing to these Terms on behalf of a business entity, you represent to Stealth Connect that you have legal authority to bind that entity.
- (c) By clicking a box indicating your acceptance of these Terms, by executing an Order Form or other contract that references these Terms, by purchasing the Solution or by otherwise accessing and/or using the Solution, you accept and agree to be bound by these Terms.

2. Licence

2.1 Licence

- (a) In consideration for agreeing to abide by these Terms, Stealth Connect grants the Customer a non-exclusive, non-transferrable, non-sublicensable, non-exclusive, limited and revocable licence to use and access the Solution in accordance with the Documentation and otherwise solely on these Terms (**Licence**).
- (b) Stealth Connect grants the Customer a non-exclusive, non-transferrable licence to use any Documentation in support of the use permitted under this clause 2.
- (c) The Support Services and the Hosted Software SLA are included as part of the Licence and contingent upon the Customer obtaining a valid Software licence. The Firmware licence for each item of Hardware is contingent upon the Customer purchasing and maintaining a valid licence to the Software.

2.2 Restrictions

Except as expressly set out in these Terms or as permitted by law, you undertake:

- (a) not attempt to make any copy of the Solution;
- (b) not to sell, transfer, rent, lease, sub-license, loan, translate, merge, adapt, vary, alter, modify or reverse engineer, the whole or any part of the Solution nor permit the Solution or any part of it to be combined with, or become incorporated in, any other materials or similar products, except to the extent contemplate by these Terms;
- (c) not to provide, or otherwise make available, the Software in any form, in whole or in part to any person without our prior written consent;
- (d) not to introduce or upload anything to the Solution that includes viruses or other malicious code;
- (e) to use the Solution only for the purpose for which it has been developed; and
- (f) not to modify or create copies of the Documentation.

3. Services

Where you have acquired a licence to use the Software pursuant to these Terms, we agree to:

- (a) perform the Services in accordance with the Documentation and any agreed Scope of Works using qualified personnel in a professional manner in accordance with generally applicable standards and regulations; and
- (b) where any service levels are agreed between the parties, use our best endeavours to ensure consistent compliance with such service levels.

4. Hardware

- (a) Unless agreed in a Scope of Works, you are responsible for installation of the Hardware and ongoing maintenance of any equipment into which the Hardware is installed.
- (b) You acknowledge that depending on your intended use of the Solution, you may require professional installation of the Hardware or ongoing professional maintenance of any equipment into which Hardware is installed.
- (c) If installation does not form part of the Solution, and you are:
 - (i) unable to install the Hardware or to conduct such ongoing maintenance, or
 - (ii) uncertain that you have the requisite skills and understanding,you agree to consult with a qualified installer or maintenance professional.
- (d) You acknowledge that improper installation of the Hardware or maintenance of the equipment into which Hardware is installed can lead to damage of such equipment or dangerous or life-threatening conditions, which can cause property damage, bodily injury, and/or death.

5. Solution updates

5.1 Updates

- (a) Stealth Connect continuously improves the Solution, and may from time to time:
 - (i) update the Software and cause Firmware updates to be automatically installed onto the Hardware; or
 - (ii) upgrade Hardware equipment to newer models.
- (b) Stealth Connect may update or alter all or any part of the Solution, at any time and without notice, at Stealth Connect's sole discretion.
- (c) Updates or upgrades may include security or bug fixes, performance enhancements, or new functionality, and may be issued with or without prior notification to the Customer. The Customer hereby consents to such automatic updates of the Solution.

5.2 Discontinuing all or part of the Solution

- (a) We may discontinue all or any part of the Solution, at any time by proving not less than 30 days' written notice to you.
- (b) If we discontinue supporting the Solution or any part of the Solution without replacing them with an updated version or newer model and such discontinuance will result in there being a material adverse effect on your ability to utilise the Solution in the manner it was being utilised immediately prior to the discontinuance, you may request a Refund.

6. Acceptable use

The Customer may not, and may not allow any third party, including its Authorised Users, to use the Solution:

- (a) for any inappropriate, improper, discriminatory, illegal, or otherwise harmful purpose; or
- (b) to violate, or encourage the violation of, the rights of others which includes, without limitation, legal rights (e.g., intellectual property or proprietary rights) or human rights (i.e., the rights inherent to all human beings regardless of race, sex, nationality, ethnicity, language, religion, or any other status, including without limitation the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more), each as reasonably determined by Stealth Connect.

7. Changes to Services

- (a) Where you wish to make any change to the Services, provided such change is within the reasonable capacity of Stealth Connect to provide, you may submit to us a change request (**Change Request**). The Change Request must contain sufficient detail for us to determine the effect of the requested change on the scope of the Services and the Fees.
- (b) Within a reasonable period of receiving a Change Request, we will provide to you a proposal for performing the changes to the Services including:
 - (i) the proposed new Services; and
 - (ii) any revised Fees and expenses.
- (c) We will have no obligation to make the requested change until the parties have agreed and signed a written agreement specifying, in particular, any changes to the Services and the Fees.
- (d) Nothing in this clause 7 restricts the parties from agreeing an expansion of the Solution, or increased access to a change to the Solution or the level of functionality of or access to the Solution.

8. Fees and invoicing

8.1 Service Fees

- (a) You shall pay Stealth Connect the Fees for the Solution as agreed in an Order Form or otherwise between the parties in writing.
- (b) Fees specified in these Terms and an Order Form are exclusive of GST and other similar taxes and surcharges and net of withholding or other similar taxes.

8.2 GST

- (a) If Goods and Services Tax (**GST**) has application to any supply made under or in connection with these Terms, we may, in addition to any amount or consideration payable under these Terms, recover from you an additional amount on account of GST, such amount to be calculated by multiplying the amount or consideration payable by you for the supply by the prevailing GST rate.
- (b) Any additional amount on account of GST recoverable from you under this clause shall be calculated without any deduction or set-off of any other amount and is payable by you upon our demand whether such demand is by means of an invoice or otherwise.

8.3 Invoices

- (a) Within 10 Business Days of the last day of each calendar month or on such other dates as set out in an Order Form, we shall issue to you an invoice for the Fees and charges payable in respect of that period.
- (b) You must pay invoices within 10 Business Days of receipt.

8.4 Failure to pay

If you fail pay the Fees on or before the due date, we shall be entitled to receive interest on overdue payments of 1% per month and shall be entitled to withhold delivery or part thereof of Services yet to be provided.

8.5 Set off

We may, without limiting any other rights or remedies we may have, set off any amounts that you owe to us under these Terms against any amounts that are payable by us to you.

9. Accounts

- (a) You shall be solely responsible for administering and protecting your Account.

- (b) You agree to provide access to the Software only to Authorised Users, and to require such Authorised Users to keep Account login information, including usernames and passwords, strictly confidential and not provide such Account login information to any unauthorised parties.
- (c) You are solely responsible for monitoring and controlling access to the Software and maintaining the confidentiality of Account login information and any provided API tokens.
- (d) If you or any Authorised User becomes aware that the security of any Account login information has been compromised, you must immediately notify us and de-activate such Account or change the Account's login information.
- (e) Authorised Users may only use the Software strictly on your behalf and subject to these Terms.
- (f) You are responsible and liable for any breach by an Authorised User of these Terms.

10. Customer Data

10.1 Ownership and usage

- (a) Nothing in these Terms transfers ownership of your Customer Data.
- (b) You hereby grant to us a non-exclusive, transferable, worldwide, royalty-free licence to use, copy, modify, create derivative works based upon, display, and distribute Customer Data in connection with operating and providing the Solution.
- (c) We will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. We will not share Customer Data without your consent, except when the release of data is compelled by law or permitted by these Terms.
- (d) We may collect and use analytics, statistics or other data related to the Customer Data and your use of the Solution:
 - (i) in order to provide to you the Solution;
 - (ii) for statistical reporting and use (provided that such data is not personally identifiable); or
 - (iii) to monitor, analyse, develop upon, maintain, and improve the Solution.
- (e) Such use shall survive the termination of these Terms, unless legally prohibited or you request in writing upon termination that such use be limited to non-personally-identifiable data. You may export Customer Data at any time through the export features in the Solution or by making a request to us in writing.
- (f) The Customer acknowledges that some information may not be exportable. If these Terms terminate or expire and you do not renew your Licence, the Customer Data may be immediately deleted.

10.2 Customer Data Representation and Warranty.

- (a) The Customer represents and warrants that:
 - (i) the Customer will obtain all rights and provide any disclosures to or obtain any consents, approvals, authorisations and/or agreements from any employee or third party that are necessary for us to collect, use, and share Customer Data in accordance with these Terms; and
 - (ii) no Customer Data infringes upon or violates any other party's Intellectual Property Rights, privacy, publicity or other proprietary rights.
- (b) You agree to indemnify, defend and hold us harmless and, if relevant, our sub-processors against any liabilities, damages, demands, losses, claims, costs, fees (including legal fees), and expenses in connection with any third-party legal or regulatory proceeding arising from any act or omission by you

in relation to your instructions or from your breach of this clause 10.2.

11. Intellectual Property Rights

11.1 Software

- (a) The Intellectual Property Rights in the Solution (other than the Third Party Software), including all Improvements to the Software, are, and shall remain our property, and we reserve the right to grant a licence to use the Software to any other party or parties.
- (b) You must do all things that we reasonably require to perfect your right, title and interest in and to the Intellectual Property Rights in the Solution.
- (c) You must use reasonable endeavours to prevent any infringement of our Intellectual Property Rights in the Software and shall promptly report to us any such infringement that comes to your attention.
- (d) We grant to you a limited, non-exclusive, royalty-free (subject to payment of the Fees), non-transferable licence to access and use the Software and the Documentation in the form made available by us for the Term to the extent necessary to obtain the full benefit of the Solution.

11.2 Firmware

- (a) The Firmware is licenced, not sold. Where you have purchased Hardware, you own the Hardware on which the Firmware is recorded, but we retain ownership of the copy of the Firmware itself, including all Intellectual Property Rights in the Firmware.
- (b) We reserve all rights in the Firmware not expressly granted to you in these Terms.
- (c) You acknowledge and agree that portions of the Firmware, including but not limited to the Source Code and the specific design and structure of individual modules or programs, constitute or contain trade secrets of Stealth Connect and its third party licensors.

12. Third party software

- (a) The Solution may contain links to and/or integrate with third party websites, resources, software, products and/or services.
- (b) You acknowledge that:
 - (i) we provide these links and integrations "as is" without warranty of any kind and only as a convenience;
 - (ii) we do not make any representations or provide any warranties whatsoever with respect to the functionality of any such third party products and/or services;
 - (iii) we are not responsible for the content, functionality, or availability of such third party products and/or services and you acknowledge sole responsibility for and assumes all risk arising from its use of any third party websites, resources, products and/or services and any links or integrations made available thereto.

13. Confidentiality and data protection

13.1 Information to be kept confidential

- (a) Each party agrees to, and shall ensure each of its officers, employees and contractors:
 - (i) hold in strict confidence all Confidential Information of the other party;
 - (ii) use the Confidential Information solely to perform or to exercise its rights under these Terms; and
 - (iii) not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third party.

- (iv) use its best endeavours, including keeping such information in a safe place and implementing adequate security measures, to ensure that all Confidential Information is secure from unauthorised use, disclosure or copying by third parties.

- (b) The obligations in clause 13.1(a) do not apply:
 - (i) to the extent necessary to enable disclosure required by law;
 - (ii) to any disclosure agreed in writing between the parties; or
 - (iii) where the Confidential Information has entered the public domain other than as a result of a breach of these Terms.

13.2 Publicity

- (a) You hereby grant to us permission to use your name and logo on our website, customer lists, and marketing materials to list you as a customer.
- (b) We will not use your name, trademarks, or logos in any other way without your prior consent.

13.3 Data protection

- (a) Both parties must comply with all applicable requirements of the Data Protection Legislation.
- (b) Without prejudice to the generality of clause 13.3(a), you must ensure that you have all necessary and appropriate consents and notices in place to enable lawful transfer of any personal data to us for the duration and purposes of these Terms so that we may lawfully use, process and transfer personal data in accordance with these Terms on your behalf.
- (c) We shall notify you immediately if we become aware of any security incident affecting our network and information systems that could potentially affect the provision of the Solution to you and shall respond without delay to all queries and requests we received from you for information about any security incident, whether discovered by us or you.

13.4 Continuation

Each party's obligations under this clause 13 continue after the termination of these Terms.

14. Term and termination

14.1 Term

- (a) This document will commence upon the Commencement Date and will continue for the term set out in an Order Form unless terminated under clause 14.2.
- (b) If no term is expressly set out in an Order Form, the engagement and this agreement to provide the Services will continue for 12 months and then be terminable by either party on 30 days' notice, provided such notice does not expire before the first anniversary of the date of commencement of the Services.

14.2 Termination for cause

In addition to any other rights to terminate set out in these Terms either party may at any time terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due pursuant to these Terms on the date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of these Terms or any licence for Third Party Software and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

- (c) the other party repeatedly breaches any of these Terms or any licence for Third Party Software in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to these Terms; or
- (d) the other party is or threatens to become insolvent.

14.3 Obligations on termination

- (a) On termination or expiry, each party shall as soon as reasonably practicable:
 - (i) return, destroy or permanently erase any documents, handbooks, storage devices or other information or data provided to it by the other party containing, reflecting, incorporating or based on Confidential Information belonging to the other party;
 - (ii) permanently delete any proprietary software belonging to the other party from its IT network or its storage devices;
 - (iii) cease all further use of the other party's Confidential Information, whether in tangible or intangible form; and
 - (iv) return all of the other party's equipment and materials,
 - (v) provided that if a party is required by any law, regulation, or government or regulatory body to retain any documents or materials containing the other party's Confidential Information, it shall notify the other party in writing of such retention, giving details of the documents and/or materials that it must retain.
- (b) On termination for any reason, you must immediately pay any outstanding unpaid invoices and interest due to us. We shall submit invoices for any Services that we have supplied, but for which no invoice has been submitted, and you shall pay these invoices immediately on receipt.

14.4 Suspension

Without limiting any other remedy we may have under these Terms or at law, Stealth Connect may suspend your access to the Solution at any time including if:

- (a) Stealth Connect suspects that you have done or may do any of the things described in clause 2.2; or
- (b) a third party alleges that you have done or threatened to do any of the things described in clause 2.2.

15. Limited warranty and exclusion of liability

15.1 Limitation of Liability

- (a) This clause sets out the entire financial liability of the parties to each other in respect of:
 - (i) any breach of these Terms;
 - (ii) any use made of the Solution; and
 - (iii) any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Terms.
- (b) As far as the law permits and unless otherwise specified in these Terms;
 - (i) all liability to a party for any injury, loss damage, cost or expense relating to or arising from these Terms, except to the extent that the injury, loss, damage, cost or expense arises from the negligent act or omission of a party, is excluded;
 - (ii) Stealth Connect expressly disclaims all warranties, express or implied, including without limitation, implied warranties of merchantability, fitness for a particular purpose, title, compatibility, security, accuracy or non-infringement;

- (iii) the Customer shall be solely responsible, as against Stealth Connect for any actions taken by the Customer or its personnel, or any other third party based (wholly or in part) on the results obtained from the use of the Software or the Services by the Customer, including in relation to any data security breach or cyber attack;
- (iv) Stealth Connect shall have no liability for any damage caused by errors or omissions in any information or instructions provided to Stealth Connect by the Customer in connection with the Services;
- (v) whilst Stealth Connect shall use all reasonable endeavours to assist the Customer in complying with any third party licence agreement relating to the Services or the Third Party Software, it shall have no liability for any breach or failure by the Customer to perform such obligations;
- (vi) Stealth Connect shall have no liability for, and no obligation to amend, replace or refund, the Customer if the Software ceases to function in accordance with any agreed specifications to the extent the failure arises from a change to any Third Party Software or another operating or software platform or any change to the terms and conditions implemented by any third party outside of our reasonable control.

15.2 Mitigation

Each party must mitigate any loss it suffers as a result of the breach by the other party to these Terms or any warranty or indemnity provided under these Terms.

15.3 Maximum liability

- (a) Subject to clause 15.3(b), the total liability of each party arising under or in connection with these Terms will be limited in the aggregate to the total Fees payable by the Customer in the previous 12 month period.
- (b) Clause 15.3(b) will not limit or exclude the liability of either party for any claim arising from:
 - (i) death or personal injury or damage to property resulting from negligence; or
 - (ii) fraud or fraudulent misrepresentation; or
 - (iii) the deliberate default or wilful misconduct of that party or its employees, agents or contractors; or
 - (iv) the non-payment of any Fees.

15.4 Consequential Loss

Neither party, nor its members, managers, officers, employees and agents, shall be liable to the other party for any loss of use, lost or inaccurate data or data corruption, non-compliance with any statutory or legal obligation or deadline, lost profits, failure of security mechanisms, interruption of business, delays or any direct, indirect, special, incidental, reliance or consequential damages of any kind, regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise, even if informed of the possibility of such damages in advance.

15.5 Australian Consumer Law

To the extent that any rights cannot be excluded (including under schedule 2 of the *Competition and Consumer Act 2010* (Cth)), then our liability will be limited to, at our election, the re-supply of the Services or the payment of the cost of having the Services supplied again.

16. Force majeure

Neither party shall be liable for any delay or failure to perform their obligations in a timely manner pursuant to this document if such delay is due to a Force Majeure Event.

17. Dispute resolution

- (a) Neither party may commence court proceedings concerning any dispute between the parties arising out of or in relation to this document (**Dispute**), unless the party starting the proceedings has complied with this clause 17.
- (b) A party claiming that a Dispute has arisen must notify the other party in writing, specifying the nature of the Dispute (**Dispute Notice**).
- (c) Following the Dispute Notice being given, the CEO of both parties must endeavour in good faith to resolve the Dispute within 14 days.
- (d) If the Dispute is not resolved within 14 days of the Dispute Notice being given, the parties must endeavour in good faith to resolve the Dispute by mediation as follows:
 - (i) if the parties fail to agree on the appointment of a mediator within 21 days of the Dispute Notice being given, either party may apply to the President of the Law Society of Queensland or the nominee of the President to nominate a mediator (which nomination the parties must accept);
 - (ii) if the mediator accepts the appointment, the parties must comply with the mediator's instructions;
 - (iii) if the Dispute is not resolved within 21 days of the appointment of a mediator, the mediation ceases;
 - (iv) the parties will be jointly responsible for the fees of the mediation, and each party is to bear its own costs in relation to the mediation;
 - (v) the mediation will be held in Brisbane, Queensland;
 - (vi) the parties may be legally represented at the mediation; and
 - (vii) the mediation will not be bound by the rules of natural justice and may discuss the Dispute with a party in the absence of any other party and their advisers.
- (e) Nothing in this clause prevents a party from seeking urgent interlocutory relief in a court.

18. General

- (a) The laws of Queensland govern these Terms and each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland and courts competent to hear appeals from those courts.
- (b) A clause or part of a clause of these Terms that is illegal or unenforceable may be severed from these Terms and the remaining clauses or parts of the clause of these Terms continue in force.
- (c) These Terms supersede all previous agreements about its subject matter. These Terms embodies the entire agreement between the parties.
- (d) Each party must do all things reasonably necessary to give effect to these Terms and the transactions contemplated by them.
- (e) A right under these Terms may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

19. Notices

- (a) A notice, consent or communication under these Terms must be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and delivered by hand, sent by prepaid mail or sent by email to that person's address as specified in an Order Form or as the person notifies the sender.
- (b) A notice, consent or communication is given and received:

- (i) if it is hand delivered, on the day it is given;
- (ii) if it is sent by post, three business days after posting (if within Australia) or seven business days after posting (if outside Australia); and
- (iii) if it is sent by email, that day, if the time of departure from the sender's mail server is before 5.00pm on a business day, or the next business day in any other case, unless the sender receives an automated message generated by the recipient's mail server (other than an 'out of office' message or other response generated by or at the instigation of the recipient) that the email has not been delivered within two hours.

20. Defined terms & interpretation

20.1 Defined terms

In these Terms, except where the context otherwise provides:

- (a) **Account** means the account that the Customer creates, via the Hosted Software, to access Customer Data.
- (b) **API** means Application Programming Interface.
- (c) **Apps** means software applications for smartphones and tablets distributed by Stealth Connect through Google Play or through the Apple App Store (as applicable).
- (d) **Authorised User** means Customer's employees and/or contractors whom the Customer authorises to use the Solution strictly on its behalf
- (e) **Business Day** means a day that is not a Saturday, Sunday or public holiday in Brisbane, Queensland.
- (f) **Confidential Information** means any information:
 - (i) relating to the business and affairs of a party;
 - (ii) relating to the customers, clients, employees, sub-suppliers or other persons doing business with a party;
 - (iii) relating to these Terms;
 - (iv) relating to the Intellectual Property Rights or Source Code of a party;
 - (v) which is by its nature confidential;
 - (vi) which is designated as confidential by a party; or
 - (vii) which the other party knows or ought to know, is confidential,

and includes all trade secrets, knowhow, marketing, financial and customer information, forecasts, and strategies and any other commercially valuable information of a party.

- (g) **Customer Data** means data captured by the Customer's use of the Hardware, data submitted by the Customer or by a third party on the Customer's behalf into Apps and Hosted Software, and the analysis, reports, and alerts generated by the Solution containing such data. For the avoidance of doubt, the Customer Data does not include any Software.
- (h) **Data Protection Legislation** means:
 - (i) the *Privacy Act 1988* (Cth) and any ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instruments made or issued under it, as amended from time to time;
 - (ii) the Australian Privacy Principles (or APPs) contained in schedule 1 of the Privacy Act referred to in (i); and
 - (iii) all other laws, regulations, registered privacy codes, privacy policies and contractual terms applicable in the jurisdiction where the Services are being provided that relate to the processing of personal information.
- (i) **Documentation** means any Solution training, technical services, or documentation made available to the Customer through the Stealth Connect website or otherwise made available to the Customer by Stealth Connect.

- (j) **Firmware** means software embedded in or otherwise running on the Hardware.
- (k) **Force Majeure Event** means an act of God, national emergency, terrorist act, sabotage, flood, storm, earthquake, pandemic, epidemic, fire, explosion, civil disturbance, insurrection, riot, war, industrial action, lockout, rebellion, quarantine, embargo and other similar governmental action or a general and continued energy shortage, power or utilities interruption or failure.
- (l) **Hardware** means the Stealth Connect hardware devices such as gateways, cameras, sensors, controllers, vision systems, and accessories, that you have purchased or has otherwise acquired via an Order Form.
- (m) **Hosted Software** means Stealth Connect's web-based software platform, including the interface accessed online
- (n) **Hosted Software SLA** means the services level agreement set out in Annexure B.
- (o) **Intellectual Property Rights** means all industrial and intellectual property rights throughout the world, whether registered, unregistered or unregistrable, including all copyrights, patents, trademarks, service marks, designs, confidential information, trade secrets, know how, data and databases, systems and domain names.
- (p) **Improvement** means any modification, enhancement, extension, adaptation, development of, applications of, improvement or other technical advance to a technology, material, document, software, or substance in whatever form.
- (q) **Licence Expiration Date** means the later of the licence termination date specified in the applicable Order Form or other contract you entered into for the purchase of the Solution or under which the Solution is made available to the Customer and if applicable to such contract the end of the Renewal Term.
- (r) **Order Form** means the order form setting out the purchase of the Solution and licences issued by Stealth Connect.
- (s) **Pre-Launch Offerings** means any hardware and/or software offerings and related documentation and accessories that are not generally available to Stealth Connect's customers and that may be in the research, development, prototyping, and/or testing phase.
- (t) **Professional Services** means the training, consulting, or other professional services that are provided by Stealth Connect to the Customer as purchased separately by the Customer pursuant to an Order Form, in Stealth Connect's sole discretion, or as otherwise mutually agreed between the parties.
- (u) **Refund** means an amount refunded to the Customer pursuant to these Terms equal to pre-paid fees for the time remaining in an applicable licence term prorated to the period of time between the date of termination and the Licence Expiration Date for the applicable Order Form, and the cost of purchased Hardware (if applicable).
- (v) **Scope of Works** means any scope of works or description of the services to be performed as agreed between the parties or that otherwise forms part of an Order Form.
- (w) **Services** means the Support Services and the Professional Services.
- (x) **Software** means the Apps, Firmware, and Hosted Software, and any improvements, modifications, patches, updates, and upgrades thereto that Stealth Connect develops or provides in connection with these Terms, and Support Services.
- (y) **Solution** means the Hardware and licensing of the Software as set out in the Order Form or otherwise being acquired by the Customer.
- (z) **Source Code** means software written in a form intelligible to trained programmers and capable of being translated into object code through assembly or compiling for operations on computer equipment.
- (aa) **Support Services** means the provision of customer support services described in Annexure B and the Documentation.
- (bb) **Third Party Software** means Intellectual Property Rights in any software or Source Code proprietary to third parties which are utilised by Stealth Connect in the provision of Services or form part of, or interact with, the Software.

20.2 Interpretation

In these Terms:

- (a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, these Terms and references to these Terms include any schedules or annexures;
- (b) a reference to a party to these Terms or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a document or agreement (including a reference to these terms) is to that document or agreement as amended, supplemented, varied or replaced;
- (e) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (f) if any day on or by which a person must do something under these Terms is not a Business Day, then the person must do it on or by the next Business Day;
- (g) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;
- (h) a reference to '\$' or 'dollar' is to Australian currency; and
- (i) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as', or 'for example' (or similar phrases) do not limit what else might be included.

Annexure A Hardware Warranty Policy

Hardware Warranty Returns

If you are experiencing technical issues, please contact Stealth Connect's support service. Contact information can be found at [\[insert link to support\]](#)

Stealth Connect stands behind its Hardware. Hardware that requires a valid licence to function have a warranty that lasts for as long as you maintain a valid licence for such Hardware. The following Hardware is eligible for such warranty:

- [\[insert products\]](#)

All other Hardware, such as accessories, come with a [\[one-year\]](#) warranty as of the date of shipment, unless otherwise specified on the applicable data sheet. During the applicable warranty period, Hardware units exhibiting material defects will be replaced free of charge.

You must return the defective Hardware units to Stealth Connect for receipt within [twenty-one \(21\) days](#) of Stealth Connect notifying you of shipment of the replacement units. If Stealth Connect does not receive the defective Hardware units within this [\[twenty-one \(21\) day\]](#) period, Stealth Connect reserves the right to charge you, and you agree to pay, the fees and costs associated with the device replacement.

If you request a return and no material defect is found with your Hardware unit, Stealth Connect reserves the right to charge you, and you agree to pay, the fees and costs associated with shipping the Hardware unit and a reasonable service fee. In such case, we will contact you before taking further action.

Nothing in this policy overrides your statutory rights.

Annexure B Hosted Software SLA

Stealth Connect’s Hosted Software is designed from the ground up to provide reliable service to our customers. We have invested in technology, operations, and infrastructure to safeguard customer data and to prevent downtime.

Stealth Connect’s Hosted Software runs on a scalable and redundant cloud computing infrastructure used by the world’s largest enterprises. Stealth Connect’s distributed software architecture spreads computation across multiple physical servers and replicates stored data across multiple physical storage devices. As a result, no single hardware failure can affect service availability.

We are pleased to offer our customers (each a **Customer**) the following 99.99% uptime SLA.

This Service Level Agreement (**SLA**) sets forth Stealth Connect’s obligations and Customer's rights with respect to the performance of Stealth Connect’s Hosted Software. This SLA is subject to the terms of service (**Terms**) governing Customer's use of Stealth Connect products and/or services, which, unless otherwise agreed between Customer and Stealth Connect, are Stealth Connect’s standard terms of service available at [\[insert links to terms\]](#). All capitalised terms used but not defined in this SLA have the meaning set forth in the Terms.

1. Definitions

For purposes of this SLA, the following terms have the meaning ascribed to each term below:

- **Downtime** means when the Customer is unable to log into the Hosted Software dashboard due to failure(s) in the Firmware or Hosted Software, as confirmed by both Customer and Stealth Connect. Please note that individual device failures are not considered downtime, but may be covered under Stealth Connect’s hardware warranty available at [\[insert link to warranty\]](#)
- **Monthly Uptime Percentage** means the total number of minutes in a calendar month minus the number of minutes of Downtime suffered in a calendar month, divided by the total number of minutes in a calendar month.
- **Service Credit** means the number of days of Hosted Software Services that Stealth Connect will add to the end of the Customer's paid licence term, at no charge to Customer.

2. Service Level Warranty

During the Term, the Hosted Software will be operational and available to Customer at least 99.99% of the time in any calendar month (**Service Level Warranty**). If the Monthly Uptime Percentage does not meet the Service Level Warranty in any calendar month, and if Customer meets its obligations under this Agreement, then Customer will be eligible to receive Service Credit as follows:

Uptime	Days Credited
< 99.99% - ≥ 99.9%	3
< 99.9% - ≥ 99.0%	7
< 99.0% - ≥ 90.0%	15
< 90.0%	30

3. Customer Must Request Service Credit

In order to receive any of the Service Credits described above, Customer must notify Stealth Connect within 30 days from the time Customer becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Customer’s right to receive a Service Credit.

4. Maximum Service Credit

The aggregate maximum amount of Service Credit to be issued by Stealth Connect to the Customer for all Downtime that occurs in a single calendar month will not exceed 30 days.

5. Exclusions

The Service Level Warranty does not apply to any services that expressly exclude this Service Level Warranty (as stated in the documentation for such services) or any outages or performance issues:

- (a) caused by strikes (other than strikes of a party’s own employees), shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labour conditions (other than with respect to a party’s own employees), earthquakes, material shortages, epidemic, disease, failure of utilities or communication or electronic systems, or any other causes that are beyond the reasonable control of a party so long as the parties use commercially reasonable efforts, including the implementation of business continuity measures, to mitigate the effects of such force majeure;

- (b) that resulted from Customer and/or third party equipment, systems, networks, or infrastructure (not within the primary control of Stealth Connect);
- (c) that otherwise resulted from Customer's violation of the restrictions or Customer responsibilities set forth in the Terms; or
- (d) caused by a third party hosting service contracted by Stealth Connect to provision the Hosted Software.

6. Exclusive Remedy

This SLA states Customer's sole and exclusive remedy for any failure by Stealth Connect to meet the Service Level Warranty.