

# OT DRAW SOFTWARE LICENCE AGREEMENT

## IMPORTANT-READ CAREFULLY:

This Licence Agreement is a legal agreement between you (either an individual or a single entity) and the author of this Software, **INSIGHTED PTY LTD (ABN 65 145 077 532)** ("**Insighted**") for the Software ("**OT Draw**"), which includes computer software and associated media and printed materials, and may include "online" or electronic documentation ("**Software**"). By installing, copying, or otherwise using the Software, you agree to be bound by the terms of this Licence Agreement. If you do not agree to the terms of this Licence Agreement, do not install the SOFTWARE. Instead, click on the Decline button or Cancel the Installation.

## BACKGROUND

- A. Insighted owns the Software.
- B. Insighted wishes to grant, and the Customer wishes to take, a Licence to use the Software on the terms of this agreement.

## AGREEMENT

### 1 LICENCE

#### 1.1 Order

- 1.1.1 The Customer agrees that by lodging a Customer Order, the Customer is offering to purchase a Licence on the terms of this Agreement.
- 1.1.2 Insighted is not obliged to accept the Customer Order. In such circumstances, Insighted will refund to the Customer any payment made by the Customer and shall communicate the same to the customer.

#### 1.2 Grant of Licence

- 1.2.1 Commencing on the Commencement Date, Insighted grants a non-transferrable, non-exclusive Licence to the Customer to use the Software during the Term under the terms of this Agreement, for the number of User licences set out in the Customer Order. The Customer may request to increase the number of Users by submitting an additional Customer Order.
- 1.2.2 Subject to the terms of this Agreement, and the option selected by the Customer, the Licence will be one of the following types:
  - 1.2.2.1 **Trial Licence** (no fee)

A Trial Licence is limited to 14 days from the date of registration. Use of the Software without purchase of a Licence shall be limited to evaluation purposes only, and limited to the individual Customer. Software protected using a Trial Licence cannot be bought, sold, licensed, copied, traded or otherwise used by other individuals. You agree that trial will last for a period of 14 days. At conclusion of trial duration you will cease all use of the Software.

#### **1.2.2.2 Individual Licence**

The purchase of an Individual Licence, entitles the Customer to one (1) personal, nontransferable, nonexclusive, royalty-free licence to use the Software on up to two devices, by a single user.

#### **1.2.2.3 Team Licence**

The purchase of a Team Licence entitles the Customer register between 2 and 9 users. Each User must have their own individual log in, and may use the Software on up to 2 devices. You must use each copy of the Software in the manner specified in this Agreement.

#### **1.2.2.4 Enterprise Licence**

The purchase of an Enterprise Licence entitles the Customer to register multiple users, being a minimum of 10, up to the number specified in your Licence terms. Each User must have their own individual log in, and may use the Software, on up to 2 devices. You may use each copy of the Software in the manner specified in this Agreement.

### **1.3 Term of Licence**

- 1.3.1 The Term of the Licence, during which the Customer is entitled to use the of Software will be determined according to the Customer Order as selected by the Customer in the Customer Order and identified on the Tax Invoice and Receipt of Purchase.
- 1.3.2 The Licence entitles the Customer to unlimited use of the Software, for the number of Users specified in the Customer Order, for the period of the Term. After the expiry of the Term, as specified on the Customer Order, or as extended by the parties in writing, the Customer's access to the Software will be terminated unless the Customer's Licence is renewed.
- 1.3.3 The Term shall start as of the date of purchase (Commencement Date). The Term will expire on the date set out in the Customer Order.
- 1.3.4 The Customer may choose to renew their Licence and Licence renewals are subject to the agreement of Insighted and the terms of Insighted's then-current Licence Agreement.

### **1.4 Conditions of Licence**

- 1.4.1 Insighted warrants that it has the authority to grant the Licence.
- 1.4.2 The Licence will be non-transferable and non-exclusive to the Customer.

- 1.4.3 The Software must only be used by the Users, and Users must not share their sign in credentials with any other individual.
- 1.4.4 Each User must sign in using their designated email address.
- 1.4.5 Each User may sign in on up to two Devices during the Term. Transfer to a new Device within the Term requires the User to sign out of the Software on the original Device and sign in on a new Device. Such transfer is limited to two transfers per month per User.
- 1.4.6 The Customer will not create or permit to exist a security interest over the Software or documentation or in any modifications to, or enhancements, Updates or New Releases of, the Software or documentation. For the purposes of the foregoing, "**security interest**" means a security interest that is subject to the Personal Property Securities Act 2009 (Cth) or any other mortgage, pledge, lien, charge or other arrangement of any kind which in substance secures the payment of money or the performance of any obligation, or that gives a creditor priority over unsecured creditors.

## 1.5 Licence Fee

- 1.5.1 The Customer must pay the Fees at the rate and frequency set out in the Customer Order.
- 1.5.2 The Licence will not commence until the Customer has made payment of the first Term's Licence Fee to Insighted.
- 1.5.3 Payment of Fee:
- 1.5.4 The Customer has the option to:
  - 1.5.4.1 Set up an automatic renewal for the regular payment of the Licence Fee in accordance with the payment option selected in the Customer Order; or
  - 1.5.4.2 Pay for the initial Term of their subscription, and then pay manually for any future Terms. If this option is selected, payment must be made prior to the expiry of any term for a new Term to commence; or
  - 1.5.4.3 Request an invoice and arrange payment via bank transfer. If this option is selected, payment must be made prior to the expiry of any term for a new Term to commence.
- 1.5.5 If an automatic renewal term is selected, the Customer agrees that Insighted may charge the Customer's credit card for the full Fee in accordance with the Customer Order.
- 1.5.6 If payment via the Customer's credit card is unable to be processed, Insighted may immediately cease provision of access to the software until such fees are paid in full.
- 1.5.7 The Licence Fee is exclusive of all taxes, duties and surcharges payable in respect of the Software and in respect of this Agreement.

## **2 USE AND SOFTWARE UPDATES**

### **2.1 General**

- 2.1.1 The Software may communicate with Insighted servers from time to time to check for available updates to the Software, such as bug fixes, patches, enhanced functions, missing plug-ins and new versions (collectively, "Updates"). By installing the Software, you agree to automatically check for and be notified of Updates.
- 2.1.2 During the term the Licence, Insighted may provide Updates at no additional charge. Without limiting the generality of the foregoing, any requests for additional features or functionality that fall outside of Insighted's ongoing updating and/or enhancing of the Software are excluded from the Updates.
- 2.1.3 You acknowledge that Insighted is under no obligation at any time to provide you with Updates consultancy services, support or training in respect of the Software. Any Updates are provided to you at Insighted's discretion.
- 2.1.4 Any Updates upon installation become part of the Software and are governed by the terms of then-current Licence Agreement.

### **2.2 Use**

The Customer warrants, represents and undertakes that it:

- 2.2.1 will only use the Software in accordance with the terms of this Agreement;
- 2.2.2 will only use the Software only for the purposes for which it was designed and only for its own business purposes;
- 2.2.3 will only use the Software in accordance with any instructions supplied by Insighted from time to time;
- 2.2.4 will promptly install all Updates provided or released by Insighted from time to time;
- 2.2.5 will abide by all applicable Laws and codes when using the Software, and acknowledges that Insighted provides no warranty as to code compliance in the products of any use of the Software;
- 2.2.6 will comply with any usage terms, including not exceeding the applicable maximum number of devices or Users authorised under this Licence;
- 2.2.7 will not sub-licence resell, loan or licence any Software to any other person;
- 2.2.8 will ensure that its Users comply with all of the warranties set out in this clause.

## **3 SUPPORT SERVICES**

### **3.1 Service Level Agreement**

- 3.1.1 Insighted will provide support as part of this Licence in accordance with the Service Level Agreement attached or as updated from time to time.

- 3.1.2 The Customer acknowledges and agrees that the level of support provided is determined by the type of Licence the Customer has purchased.

## **4 INTELLECTUAL PROPERTY RIGHTS**

### **4.1 Ownership**

- 4.1.1 Insighted retains ownership of the Software whether in its original form or as modified by the Customer during the term of the Licence.
- 4.1.2 All Intellectual Property Rights in the Software are retained by Insighted.
- 4.1.3 Nothing in this Agreement affects the ownership of Moral Rights in the Software.
- 4.1.4 The Customer warrants that it will not, and will ensure that any Users do not, use the Services in a way that infringes the Intellectual Property Rights of Insighted or any third party;

### **4.2 Modifications**

- 4.2.1 The Customer must not modify the whole or any part of the Software or combine or incorporate the whole or any part of the Software in any other program or system, without the prior consent in writing of Insighted. As a condition of its consent, Insighted may specify that such modifications must be effected by the Insighted or a contractor of Insighted.
- 4.2.2 The Customer will fully indemnify and hold harmless Insighted against any liability incurred as a result of modifications effected by the Customer, including but not limited to if such modifications infringe the Intellectual Property Rights of a third person.
- 4.2.3 The Software as modified remains the property of Insighted.

### **4.3 Reverse engineering**

Except as expressly permitted by part 3 division 4A of the Copyright Act 1968 (Cth), the Customer must not reverse assemble or reverse compile the Software or any part of the Software.

## **5 USE OF THIRD PARTY SOFTWARE**

### **5.1 Access and Customer Accounts**

- 5.1.1 Insighted discloses to the Customer that Insighted may use third party software for the purposes of managing accounts, management of licences and activation of licences, invoicing and updating the Software. This third party software may be managed by an entity located outside of Australia, specifically in the United States of America.
- 5.1.2 The Customer acknowledges and agrees that by using the Software, they consent to the use by Insighted of such third party software.

## **5.2 Customer Warranty**

- 5.2.1 The Customer warrants that it will not integrate or engage any third party to integrate any other third party software with the Software without obtaining Insighted's prior written consent.

## **6 SECURITY AND RISK**

### **6.1 Security**

The Customer will be responsible for protecting the Software at all times from unauthorised access, use or damage.

Users have the option to set up Multi-Factor Authentication (MFA) for additional security, at their discretion. Insighted recommends that all Users select this option. Insighted does not guarantee the performance of any third party MFA.

### **6.2 Risk**

Risk of loss or damage to the Software and the Media will pass to the Customer upon delivery of the Software to the Customer.

## **7 WARRANTIES AND INDEMNITIES**

### **7.1 Disclaimer of Warranties**

The Customer expressly acknowledges and agrees that:

- 7.1.1 Their use of the Software is at the Customer's sole risk. The Software is provided without warranty of any kind. To the maximum extent permitted by applicable law, Insighted and its suppliers disclaim all warranties, either express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with regard to the Software, and any accompanying hardware.
- 7.1.2 Insighted makes no warranty:
  - 7.1.2.1 that the Software will meet your requirements,
  - 7.1.2.2 that the Software will be error-free or bug-free,
  - 7.1.2.3 regarding the security, reliability, timeliness, or performance of the Software, and
  - 7.1.2.4 that any errors in the Software will be corrected.
- 7.1.3 Any content or material downloaded or otherwise obtained through the use of the Software is done at the Customer's own discretion and risk and the Customer is solely responsible for any damage to their computer system or other device or loss of data that results from the download or use of any such content or material.

- 7.1.4 No advice or information, whether oral or written, obtained by you from Insighted or any third party or through the Software shall create any warranty not expressly stated in this Agreement.

## **7.2 Implied terms and consumer guarantees**

- 7.2.1 Subject to clause 7.2, any condition or warranty which would otherwise be implied in this Agreement is excluded.
- 7.2.2 Liability for breach of a guarantee conferred by the Australian Consumer Law (other than those conferred by sections 51 to 53 of the Australian Consumer Law) is limited:
  - 7.2.2.1 in the case of goods, to any one of the following as determined by Insighted:
    - 7.2.2.1.1 the replacement of the goods or the supply of equivalent goods;
    - 7.2.2.1.2 the repair of the goods;
    - 7.2.2.1.3 the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - 7.2.2.1.4 the payment of the cost of having the goods repaired; and
- 7.2.3 in the case of services, to any one of the following as determined by Insighted:
  - 7.2.3.1 the supplying of the services again; or
  - 7.2.3.2 the payment of the cost of having the services supplied again.

## **7.3 Indemnity and liability**

- 7.3.1 The Customer indemnifies, defend and hold harmless Insighted from and against any and all claims, damages, losses, costs and expenses relating to or arising from the Customer's use, or use by its agents, officers, employees or contractors, of the Software or any other activity relating to the Software.
- 7.3.2 Except in relation to liability for personal injury (including sickness and death), property damage or an infringement of confidentiality or Intellectual Property Rights, and subject to any non-excludable statutory liability, the liability of Insighted for damages in respect of any act or omission of Insighted in connection with its obligations under this Agreement will not exceed the amount (if any) of the Licence Fee.
- 7.3.3 In respect of any claim between the parties under or in connection with this Agreement, the parties agree that to the maximum extent permitted by law, the operation of part 4 of the Civil Liabilities Act 2002 (NSW) or of any laws having a similar effect in the Commonwealth and other states and territories of Australia with respect to proportionate liability, are excluded and have no application or effect.

## 8 TERMINATION

### 8.1 Termination by Customer

- 8.1.1 The Customer may terminate this Agreement at any time by permanently deleting the Software in its entirety and notifying Insighted of the Termination. Termination by the Customer does not entitle the Customer to a refund of any part of the Licence Fee.

### 8.2 Termination by Insighted

- 8.2.1 For the purpose of this Agreement, each of the following is a **Terminating Event**:
  - 8.2.1.1 Non-payment of the Fee for more than 14 days;
  - 8.2.1.2 the breach or threatened breach by the Customer of any of its material obligations under this Agreement;
  - 8.2.1.3 the appointment of any type of insolvency administrator in respect of the property or affairs of the Customer;
  - 8.2.1.4 the entry or proposed entry by the Customer into any scheme, composition or arrangement with any of its creditors;
  - 8.2.1.5 the permanent discontinuance of use of the Software or any part of the Software by the Customer;
  - 8.2.1.6 the merger with or the takeover of either party by another person.
- 8.2.2 Insighted may terminate this Agreement immediately on the happening of a Terminating Event at its sole discretion.
- 8.2.3 If the Terminating Event is one specified in clauses 8.2.1.1, Insighted will give to the Customer notice of the happening of that event and require the breach to be remedied or a written undertaking to be given that the breach will not occur, as the case may be. If the breach is not remedied or the undertaking not given (as the case may be) within 5 Business days, Insighted may then terminate this Agreement, and the Customer will have no claim against Insighted for such termination.
- 8.2.4 Any termination of the Licence will not affect any accrued rights or liabilities of either party, nor will it affect any provision of this Agreement which is expressly or by implication intended to continue in force after such termination.

## 9 GENERAL

### 9.1 Confidentiality

- 9.1.1 A party will not, without the prior written approval of the other party, disclose the other party's Confidential Information.
- 9.1.2 A party will not be in breach of clause 9.1.1 in circumstances where it is legally compelled to disclose the other party's Confidential Information.



- 9.1.3 Each party will take all reasonable steps to ensure that its employees and agents, and any sub-contractors engaged for the purposes of this Agreement, do not make public or disclose the other party's Confidential Information.
- 9.1.4 Despite any other provision of this clause, a party may disclose the terms of this Agreement (other than Confidential Information of a technical nature) to its related companies, solicitors, auditors, insurers and accountants.
- 9.1.5 This clause will survive the termination of this Agreement.

## **9.2 GST**

- 9.2.1 Words defined in the GST Law have the same meaning in this clause, unless the context makes it clear that a different meaning is intended.
- 9.2.2 In addition to paying the Licence Fee and any other amount payable or in connection with this Agreement (which is exclusive of GST), the Customer will pay to Insighted an amount equal to any GST payable (if applicable) from any supply by Insighted in respect of which the Licence Fee or any other amount is payable under this Agreement.

## **9.3 Entire Agreement**

This Agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the Software. No addition to or modification of any provision of this agreement will be binding upon the parties unless made by written instrument signed by a duly authorised representative of the party.

## **9.4 Notices**

- 9.4.1 All notices which are required to be given under this agreement must be in writing and must be sent to the address of the recipient set out in the Customer Order or such other address as the recipient may designate by notice given in accordance with this clause.
- 9.4.2 Any notice may be delivered by hand or by prepaid letter or email. Any such notice will be deemed to have been served when delivered (if delivered by hand) or 5 days after posting (except by prepaid letter) or on transmission by the sender (if sent by facsimile) or (if sent by email and unless agreed otherwise) when the email enters the recipient's mail server.

## **9.5 Assignment**

Neither party will assign, whether in whole or part, the benefit of this Agreement or any rights or obligations under this Agreement, without the prior written consent of the other party.

## **9.6 Governing law**

This Agreement will be governed by and construed in accordance with the laws for the time being in force in New South Wales and the parties agree to submit to the jurisdiction of the courts and tribunals of that State.

## **9.7 Waiver**

No forbearance, delay or indulgence by a party in enforcing the provisions of this Agreement will prejudice or restrict the rights of that party, nor will any waiver of those rights operate as a waiver of any subsequent breach

## **9.8 Variation**

No variation of this Agreement will be effective unless in writing and signed by both parties.

## **9.9 Severability**

Should any part of this Agreement be or become invalid, that part will be severed from this Agreement. Such invalidity will not affect the validity of the remaining provisions of the Agreement.

# **10 DEFINITIONS AND INTERPRETATION**

## **10.1 Definitions**

**Commencement Date** means the date specified in the Customer Order.

**Confidential Information** means information that is by its nature confidential but does not include:

- (a) information already known to the receiving party at the time of disclosure by the other party; or
- (b) information in the public domain other than as a result of disclosure by a party in breach of its obligations of confidentiality under this Agreement.

**Customer Order** means a completed order executed by the Customer either physically or electronically and returned to Insighted, or selected by the Customer by choosing the "I Accept" button on the Insighted Website, and accepted by Insighted by confirmation in writing or by providing access to the Software.

**Designated Computer Equipment** means the devices on which the Users install and log in to use the Software.

**GST** means:

- (a) the same as in the GST Law;
- (b) any other goods and services tax, or any tax applying to this Agreement in a similar way; and

(c) any additional tax, penalty tax, fine, interest or other charge under a law of such a tax.

**GST Law** means the same as "GST law" in [\*A New Tax System \(Goods and Services Tax\) Act 1999\*](#) (Cth).

**Intellectual Property Rights** means all present and future rights conferred by statute, common law or equity in or in relation to any copyright, trade marks, designs, patents, circuit layouts, business and domain names, inventions, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields.

**Licence** means the Licence of Software granted pursuant to this Agreement.

**Licence Fee** means the amount so specified in the Customer Order.

**Media** means the media on which the Software is recorded or printed.

**Moral Right** means:

- (a) a right of attribution of authorship;
- (b) a right not to have authorship falsely attributed;
- (c) a right of integrity of authorship; or
- (d) a right of a similar nature,

which is conferred by statute, and which exists or comes to exist anywhere in the world in a deliverable form comprised within this Agreement.

**New Release** means software which has been provided primarily to implement an extension, alteration, improvement or additional functionality to the Software.

**Software** means the computer program and related documentation as specified in the Customer Order.

**Specifications** means the specifications for the Software as agreed between the parties or as otherwise set out in Supplier documentation.

**Term** means the term set out in the Customer Order.

**Update** means software which has been produced primarily to overcome defects in the licensed Software.

**User** means an authorised individual within a Customer's organisation, identified by the email address provided to Insighted by the Customer, who uses or accesses the Software on behalf of the Customer.

## **10.2 Interpretation**

Words importing the singular include the plural and vice versa and words importing one gender will include all other genders. Headings are for ease of reference only and will not affect the interpretation of this Agreement.

## SERVICE LEVEL AGREEMENT

### BACKGROUND

- A The Customer licences the Software from Insighted under a Licence agreement between the Customer and Insighted.
- B Insighted will provide Maintenance Services to the Customer on the terms of this agreement.

### OPERATIVE PROVISIONS

#### 1 Definitions and interpretation

##### Definition

- 1.1 **Additional Charge** means a charge in addition to the Fee in effect from time to time.
- 1.2 **Initial Term** means the initial maintenance period as specified in clause 2.
- 1.3 **Licence Agreement** means the Licence Agreement between Insighted to the Customer granted for the Use of the Software
- 1.4 **Maintenance Services** means the maintenance services to be provided by Insighted as specified in this agreement.
- 1.5 **Manual of Specifications** means a document containing technical information relating to the Software and which has been made available by Insighted to the Customer under the Licence, either in hard copy or on-line.

##### Interpretation

- 1.5.1 Words importing the singular include the plural and vice versa and words importing one gender will include all other genders. Headings are for ease of reference only and will not affect the interpretation of this agreement.
- 1.5.2 Words starting with a capital carry the same meaning as defined in the Licence Agreement, if applicable.

#### 2 Duration

- 2.1 This agreement commences on the Commencement Date and remains in force during the Term.

#### 3 Maintenance Services

- 3.1 Insighted agrees to provide remote Maintenance Services to the Customer on the terms and conditions contained in this agreement.

#### 4 Manual of Specifications

- 4.1 The parties acknowledge that Maintenance Services to be rendered to the Software include the amendment or correction, as required, of the Manual of Specifications.

## **5 Ownership of Software**

- 5.1 Nothing in this agreement affects ownership of the Software or Intellectual Property Rights in the Software. For the avoidance of doubt, the software is licensed to the Customer pursuant to a separate agreement.

## **6 Maintenance Fees**

- 6.1 Some levels of Service are included in the Fee for the Licence.
- 6.2 Any Additional Charge payable pursuant to this agreement is in addition to the Fee.
- 6.3 An Additional Charge will be payable if the Customer requests Insighted to provide additional services which are not specified or which are found to be unnecessary, or not included in the particular Customer's Licence.
- 6.4 The Additional Charge is exclusive of all taxes, duties and surcharges payable in respect of the Maintenance Services and in respect of this agreement.
- 6.5 If the Customer disputes the whole or any part of the amount claimed in an invoice submitted by Insighted pursuant to this agreement, the Customer will pay the undisputed portion on the due date. The dispute regarding the remainder may be referred to the dispute resolution procedure prescribed by this agreement. If it is subsequently resolved that a further amount is payable, the Customer will pay that amount together with interest at the rate of 5% per annum.
- 6.6 The Customer will pay such Additional Charge within 14 days of receipt of a relevant tax invoice from Insighted.

## **7 Maintenance Services**

- 7.1 The Maintenance Services included in the Customer's Licence are as set out in Annexure A below.
- 7.2 The Maintenance Services will be handled by Insighted in order of priority (as numbered in Annexure A), and Insighted will endeavor to meet the timeframes as set out Annexure A for response times.
- 7.3 Insighted will use all reasonable endeavours to maintain the Software in substantial conformity with the descriptions and specifications contained in the Manual of Specifications.
- 7.4 If the Customer discovers that the Software fails to substantially conform with the descriptions and specifications, it will immediately notify Insighted of the fact, unless non-conformity is discovered after 5.00 pm on a business day. In that case, the Customer will notify Insighted by 10.00 am on the following business day. If the non-conformity is discovered between 5.00 pm on the last business day of any week and 9.00 am on the first business day of the following week, the Customer will notify Insighted of the non-conformity by 10.00 am on the first business day following that period.
- 7.5 Immediately after notifying Insighted in accordance with clause 7.4, the Customer will, insofar as it is able to do so, provide Insighted with a documented example of the defect or error which constitutes the non-conformity. It will also submit to Insighted, if requested, a listing of output and any other data which Insighted reasonably requires in order to

reproduce operating conditions similar to those present when the non-conformity was discovered.

- 7.6 If the Customer notifies Insighted in accordance with clauses 7.4 and 7.5, Insighted will use its best endeavours to furnish off-site telephone support, in the form of consultations, assistance and advice on the use and maintenance of the Software within the relevant time frame set out in Annexure A. Insighted does not guarantee that all issues raised by a Customer will be able to be resolved, or that the Software will be bug-free. If the issue raised is unable to be resolved, Insighted will inform the Customer within the timeframe set out for the particular error as set out in Annexure A.
- 7.7 The parties acknowledge that the Maintenance Services to be provided in respect of the Software does not include training of the Customer's personnel in the use of the Software, unless selected by the Customer as part of their Customer Order.
- 7.8 If so stated in the Customer's Licence, the services include the provision of Updates and New Releases.
- 7.9 The Customer acknowledges that the non-compliance by Insighted with the timeframes set out in Annexure A does not at any time entitle the Customer to reduce, set off or delay payment of the Fee for the Licence.

## **8 Exclusions**

- 8.1 Maintenance Services required of Insighted under clause 7.1 do not include the following:
  - 8.1.1 rectification of defects or errors resulting from any modification of the Software made by any person other than Insighted;
  - 8.1.2 rectification of defects or errors resulting from use of the Software in combination with equipment other than the Designated Computer Equipment;
  - 8.1.3 rectification of operating errors;
  - 8.1.4 rectification of a fault in the Designated Computer Equipment;
  - 8.1.5 any modification of the Software which represents a departure from the descriptions and specifications contained in the Manual of Specifications; and
  - 8.1.6 rectification of errors or defects which are the subject of a warranty under another agreement.

## **9 Customer's obligations**

- 9.1 The Customer will ensure that the Software and the Designated Computer Equipment are used in a proper manner by competent and trained employees only or by persons under their supervision.
- 9.2 The Customer will co-operate fully with Insighted's personnel in the diagnosis of any alleged non-conformity of the Software.
- 9.3 The Customer will make available to Insighted free of charge all information, facilities and services reasonably required to enable Insighted to perform the Maintenance Services effectively.

- 9.4 The Customer will provide such telecommunication facilities as are reasonably required by Insighted for testing and diagnostic purposes at the Customer's sole expense.

## 10 Warranties

- 10.1 Insighted warrants that it will perform the Maintenance Services in an efficient and professional manner and that it will observe standards generally observed in the industry for similar services.
- 10.2 Insighted warrants it will use its best endeavours to maintain the Software in conformity with the specifications and to ensure the Manual of Specifications remains accurate. The Customer acknowledges that Insighted does not warrant that the Software can be rendered error free.

### Annexure A – Maintenance Services

Level:	Response Times:	Examples:	Contact Method:
Critical	1 hr (24/7)	Complete service outage: - website completely down - access to portal platform completely down for all users - Sign-in API for application completely down for all users - SoftwareKey licence servers completely down for all users	Phone call: +61 2 7908 4093
High	8 business hours	Degraded performance Email notifications not sending for critical workflows Service available but key modules down Security vulnerability	Email: <a href="mailto:support@otdraw.com">support@otdraw.com</a>
Normal	2 business days	Single feature malfunction Bugs and errors for non-critical functions Sales and licence enquiries	Email: <a href="mailto:support@otdraw.com">support@otdraw.com</a>
Low	4 business days	Minor visual errors Request for cosmetic change Feature suggestion Non-urgent configuration changes General user questions	Email: <a href="mailto:support@otdraw.com">support@otdraw.com</a>