

1. **Applicability and Scope**
 - 1.1 These terms and conditions (the "Digital Terms") apply for Digital Services provided by NTX Australia Pty Ltd (ACN 611 342 913) ("Newtrax") to Customer. Subject to the terms of the Contract, Newtrax will provide Digital Services in relation to Connected Equipment.
 - 1.2 The relationship between Newtrax and Customer is that of independent contractors and each party's obligations to the other are exclusively contractual in nature. Nothing in this Contract, or in connection with the performance of Digital Services, expressly or by implication shall create a partnership, joint venture, corporation, employer-employee, fiduciary or agency relationship between the parties, or any responsibility by one party for the actions of the other.
2. **Evidence of Contract and Precedence of Documents**
 - 2.1 The Contract contains the entire agreement between Newtrax and the Customer with respect to Customer's use of Digital Services and Software and supersedes all prior communication and agreements. The Customer acknowledges that in entering into the Contract it does not rely on any communication that has not been expressly set out in the Contract. These Digital Terms apply to the exclusion of any other terms or conditions that may be sought to be invoked by the Customer (including without limitation any terms referenced in any Order or on any online website or electronic platform), or which are implied by trade, custom, practice or course of dealing. Newtrax expressly rejects the Customer's standard terms and conditions of purchase and any terms and conditions other than the terms and conditions stated herein.
 - 2.2 The Customer expressly acknowledges and agrees that all Orders issued to Newtrax shall be an offer to procure Digital Services from Newtrax under these Digital Terms, and that upon Order Acceptance, both Newtrax and the Customer shall be bound by the terms of the Contract.
 - 2.3 A Contract for the supply of Digital Services is made upon Order Acceptance.
 - 2.4 By accessing, using or otherwise accepting the benefit of any Digital Services, the Customer acknowledges that the Digital Services are supplied in accordance with the terms and conditions of the Contract.
 - 2.5 If there is any conflict or inconsistency between the parts constituting the Contract the parts will rank in the following order: 1. the Order Acceptance; 2. any other document attached or referred to in the Order Acceptance; 3. The Digital Terms; 4. any other document attached or referred to in the Digital Terms; 5. the Quote; 6. any other document attached or referred to in the Quote; and 7. the Order.
3. **Term and Renewal**
 - 3.1 The term of the Contract, and the duration of Customer's right to use the Digital Services, is specified in the Order Acceptance (or otherwise in the Contract).
 - 3.2 Unless otherwise stated in the Contract, the term is renewed automatically in periods of twelve (12) months at a time, unless the Contract is terminated in writing by a party at least six (6) months prior to expiry of the current term.
4. **Software License**
 - 4.1 Subject to Customer's full payment of any Fees, and subject to Customer's and its End Users' compliance with the Contract (including the Digital Terms), Newtrax grants Customer a non-exclusive, non-transferable, non-sublicensable and revocable right to use and permit End Users to access and use the Digital Services at the Site solely for Customer's internal business purposes. If and to the extent the Digital Services require Customer to install and use Software, Newtrax hereby grants the Customer a non-exclusive, non-transferable, non-sublicensable and revocable licence to use such Software for the sole purpose of accessing and using the Digital Services. Additional license terms and conditions for use of Software (e.g. related to Third-Party Software) may apply, as specified in connection with download and/or use of Software.
 - 4.2 Except as permitted by mandatory applicable laws in Customer's jurisdiction(s), the Customer may not (i) modify or create copies of any part of the Digital Services or Software; (ii) reverse engineer, decompile, disassemble, circumvent or otherwise create or attempt to create or permit, allow, or assist others to create the source code of any part of the Digital Services or Software or its structural framework; (iii) sell, transfer, license, offer as a service, or otherwise dispose of or distribute any part of the Digital Services or Software; or (iv) use any part of the Digital Services or Software for any other purpose or in any other manner than that defined in the Contract.
 - 4.3 Customer may not under any circumstances change or remove any copyright and/or other proprietary notice in the Digital Services or Software.
 - 4.4 The Digital Services or Software may contain software licensed by third parties ("Third-Party Software") which is provided solely subject to terms and conditions published by the respective Third Party licensor(s) from time to time. Where Third Party Software is supplied or installed as part of the Digital Services or Software, the relevant Third Party terms and conditions shall apply in lieu of the Digital Terms in relation to all aspects of such Third-Party Software. Newtrax assumes no liability whatsoever for any error, defect, infringement or unavailability in or to the Digital Services or Software caused by Third-Party Software.
 - 4.5 The Digital Services and/or Software may be subject to domestic and international import and export control laws and regulations and may be subject to import and export regulations in other countries. These laws and regulations may include licensing requirements and restrictions on destinations, end users, and end use. It is the Customer's responsibility to obtain any and all necessary licences and/or any required prior governmental authorisation to export, re-export, import, download or otherwise use the Digital Services and Software.
5. **General Obligations**
 - 5.1 The Customer may only use the Digital Services for the defined purpose of each Digital Service and always in accordance with the Contract, the Acceptable Use Policy and applicable local and international laws and regulations.
 - 5.2 The Customer shall procure and maintain necessary data connections, networks and other infrastructure, as specified in the Technical Requirements and/or as instructed by Newtrax from time to time. The Digital Service is a standard service offering and Newtrax will not, except as explicitly agreed in the Contract, be liable to ensure that the Digital Services comply with any customer-specific, country-specific or industry-specific security concepts or standards.
 - 5.3 Customer shall use and access Digital Services only from Connected Equipment or via the provided web interface (or similar) unless otherwise approved in writing by Newtrax in advance. In addition, the Customer shall maintain independent backup copies of all Input Data or other data provided by Customer to Newtrax.
6. **Customer Indemnity**
 - 6.1 The Customer is liable to ensure that all its Affiliates, officers, agents, employees, distributors, sub-contractors or other representatives comply with the Contract.
 - 6.2 Customer shall indemnify, hold harmless and defend Newtrax and its Affiliates, officers, agents, employees, distributors, sub-contractors or other representatives (in this clause referred to as 'those indemnified') from and against all liabilities, costs and expenses (including, without limitation, all reasonable legal fees) suffered or incurred by any of those indemnified or a third party arising out of or in connection with the Customer's or Customer Affiliates' use of the Digital Services or Software (i) in violation or non-compliance of the Contract, (ii) for any other purpose(s) than those anticipated by Newtrax for the relevant Digital Service, or (iii) in violation of export or trade restriction laws, employment laws, Data Protection Laws or other applicable laws in Customer's jurisdiction.
7. **Access and User Accounts**
 - 7.1 For the management, administration and use of the Digital Services and/or Software, Newtrax may make available user account(s) required to access the Digital Services and Software as required. Customer may manage, access and use the Digital Services as described in the documentation provided to the Customer, i.e. via the Connected Equipment, a web interface and/or dashboard(s) by using log-in data provided by Newtrax or a Newtrax Affiliate to Customer.
 - 7.2 Customer is responsible to ensure that user names, passwords and other account details are kept confidential and not shared between several End Users.
 - 7.3 Customer shall only allow authorized and appropriately skilled customer personnel to use the Digital Services and Software. Unauthorized access is strictly prohibited and the Customer must maintain records of all personnel accessing the Digital Services and Software. Customer shall provide those details to Newtrax immediately upon request.
 - 7.4 The Customer is responsible for all actions taken by any party whom the Customer has allowed access to use the Digital Services and/or the Software and shall ensure that such party complies with this Contract and any further terms and conditions for the use of the Digital Services.
 - 7.5 Customer is responsible in relation to Newtrax for all acts and omissions by End Users. No

contractual relationship is created between End Users and Newtrax.

- 7.6 Customer shall ensure that End Users (i) will adhere to the Acceptable Use Policy, as applicable from time to time, and/or (ii) will not provide Newtrax with any data or other information which the use of may result in a violation of applicable laws, Intellectual Property Rights, or other rights or restrictions towards third parties.
- 8. Availability and Technical Support**
- 8.1 Newtrax shall take all commercially reasonable efforts to ensure that the Digital Services are available at all times. Notwithstanding the foregoing, Customer acknowledges that availability of the Digital Services is subject to Customer's compliance with the Digital Terms and also dependant on several factors outside Newtrax's control (e.g. public communication networks, cloud infrastructure and/or connectivity issues).
- 8.2 The Digital Services may be unavailable from time to time due to necessary updates or maintenance. If reasonably possible, scheduled maintenance will be posted on the Digital Services' interface or otherwise communicated to Customer (e.g. via email).
- 8.3 Newtrax may upon request offer technical support services, training and other professional services to Customer in relation to Digital Services subject to separate agreement and additional fees.
- 8.4 Customer grants Newtrax and Affiliates a worldwide, perpetual, irrevocable, transferable, sub-licensable, royalty-free license to use any suggestion, recommendation, feature request, or other feedback related to the Digital Services ("Feedback") provided by or on behalf of Customer and End Users, and to incorporate any of the above into the Digital Services.
- 9. Changes**
- 9.1 Unless otherwise agreed, Customer acknowledges that Newtrax provides the Digital Services in a standard cloud environment and that the Digital Services will be provided in then-current version of Digital Services made generally available by Newtrax to its customers.
- 9.2 Newtrax is under no obligation to maintain prior versions of Digital Services or Software. Any updates or changes to the Digital Services or the Software are provided subject to the terms of the Contract.
- 9.3 Subject to Section 9.4, Newtrax reserves the right to change, update and further develop the technology, features and functionality of Digital Services and/or the contents of the Digital Terms from time to time. Information about such changes will be made available to the Customer by Newtrax, in an appropriate manner, e.g. in the Digital Services and/or by written notice to the Customer (including email).
- 9.4 In case of major changes to the Digital Services or the Digital Terms, where such changes have a material adverse effect on Customer's access to or use of Digital Services, or if significant features or functionalities of the Digital Services are restricted or disabled by Newtrax, then (i) Newtrax will use reasonable efforts to notify Customer in advance and (ii) Customer may terminate this Contract by giving written notice within thirty (30) days from the implementation of such material change (unless Newtrax agrees to modify or revoke the relevant change).
- 10. Fees and Payment Terms**
- 10.1 Applicable Fees for the Digital Services are specified in the Order Acceptance (or otherwise in the Contract), and the Customer agrees to be

- bound by such Fees by installing, copying, downloading or otherwise using the Digital Service and/or Software.
- 10.2 Unless otherwise stated in the Contract, Customer shall pay all invoices within thirty (30) days from the date of the invoice. The Customer agrees that if any amount payable is not paid by the due date Newtrax shall be entitled to charge and recover interest at the rate of 1.5% per month on the overdue amount for the period between the due date until payment is made in full. Payment received from the Customer is valid once honored or funds are cleared. The Customer agrees to indemnify and keep Newtrax indemnified against any costs incurred by Newtrax in connection with the Customer's failure to pay on the due date, including but not limited to legal fees on an attorney and own client scale, including collection charges, on an indemnity basis and debt collection.
- 11. Intellectual Property Rights**
- 11.1 All Intellectual Property Rights in and to the Digital Services and the Software shall belong to and vest exclusively with Newtrax or its licensors (as applicable). The Customer shall have no rights in or to the Digital Services or Software, except as explicitly stated in the Digital Terms. Notwithstanding anything else stated to the contrary anywhere in the Contract, the Contract will not and is not intended to transfer, assign or grant implied rights to any part of Newtrax's or any Affiliates' Intellectual Property Rights to Customer.
- 11.2 Newtrax shall indemnify and hold Customer harmless and defend or settle any claim suit or proceeding brought against the Customer that is based upon a claim that the Digital Services or Software infringes any third party Intellectual Property Right ("Claim"), but only to the extent the Claim arises directly out of permitted use of the Digital Services and Customer has not in any way modified, altered, incorporated material into or otherwise used the Digital Services in any manner not allowed under this Contract.
- 11.3 In addition, Newtrax's indemnification obligations pursuant to Section 11.2 shall apply only if:
- Customer promptly notifies Newtrax in writing of any Claim without undue delay, and in any case within ten (10) Business Days after receiving a notice of the Claim;
 - Customer gives Newtrax (or an Affiliate notified by Newtrax) the sole control over any Claim and allows Newtrax (or its Affiliate as applicable) to conduct all negotiations and settle all Claims on Customer's behalf; and
 - at Customer's sole cost, Customer provides Newtrax (or its Affiliate as applicable) with such assistance and co-operation as Newtrax may reasonably request from time to time in connection with the Claim.
- 11.4 If a Claim, demand, suit or action alleging the Digital Services or Software infringes third party Intellectual Property Rights is brought or is likely to be brought against Customer or Newtrax, Newtrax or any of its Affiliates shall have the option at its sole cost and expense to:
- modify, amend or replace the infringing Digital Services or Software or any part thereof so as to make it non-infringing; or
 - obtain the necessary licence and right to continue using the Digital Services or Software; and
 - if neither a) or b) is commercially viable for Newtrax (as determined in Newtrax's

- sole discretion), Newtrax may terminate the Contract with immediate effect, provided that Newtrax refunds Customer on a pro rata basis for any Fees paid in advance by Customer to Newtrax.
- 11.5 Newtrax's liability under this section 11 shall be reduced proportionately to the extent the liability was caused or contributed to by an act or omission of Customer.
- 11.6 The foregoing constitutes Newtrax's sole and exclusive liability for third party intellectual property infringement. For the avoidance of doubt, this indemnity does not apply to, nor cover, Third-Party Software.
- 12. Data**
- 12.1 The Digital Service is based on Input Data from Connected Equipment sent by Customer to Newtrax. As part of the Digital Services, the Input Data is analysed, processed and refined into Output Data.
- 12.2 All rights, title and interests in or to Input Data and Output Data is retained by the Customer. Input Data and Output Data shall constitute Confidential Information of the Customer. The Customer however agrees that Customer may only use Output Data for its own internal business purposes.
- 12.3 Newtrax shall apply the same level of security and confidentiality standards to the Input Data and Output Data as it applies to its own commercially sensitive data.
- 12.4 The Customer agrees that Newtrax and its Affiliates may, and are hereby licensed to, collect, store, use, analyse and process any Input Data and Output Data, in order for Newtrax to:
- provide the Digital Services during the term of the Contract; and
 - extract, collect, process and use Newtrax Data.
- 12.5 All rights, title and interest in and to the Newtrax Data will be exclusively retained by Newtrax. Newtrax Data shall constitute Confidential Information of Newtrax.
- 12.6 Customer acknowledges that the Digital Services are based on Input Data sent to Newtrax. The Customer is solely responsible and liable for the availability, quality, accuracy, reliability, completeness and integrity of Input Data. Newtrax hereby expressly disclaims any such warranty.
- 13. Personal Data**
- 13.1 If and to the extent Input Data and/or Output Data contains any Personal Data, Customer is the data controller (as such term is defined in the General Data Protection Regulation ((EU) 2016/679)) for such Personal Data.
- 13.2 Customer shall ensure that all necessary notices to relevant data subjects have been provided and, if deemed necessary by Customer, that appropriate consents have been obtained to enable the lawful transfer and processing of Input Data and Output Data by Newtrax and its subcontractors as described in the Contract. Customer hereby agrees that Newtrax, at its discretion, may engage any subcontractor (inside or outside the European Union) as a sub-processor for the processing of Personal Data hereunder; provided that Newtrax shall remain responsible in relation to Customer for the acts and omissions of such subcontractor.
- 13.3 The Customer undertakes to immediately notify Newtrax in writing if the Customer has any reason to believe that the Digital Services, any transfer or processing of Personal Data pursuant to it, or any part thereof, does not comply with the Data Protection Legislation.

- 14. Warranty**
- 14.1 Newtrax warrants during the term of the Contract that the Digital Services and Software will operate and function substantially in accordance with the technical specifications and materials published by Newtrax in relation to the relevant Digital Service from time to time. In case of any warranty claim, Newtrax shall, at its option, (i) rectify, repair or replace any errors or faults in the Digital Services, (ii) credit paid or payable Fees during the period of an error or fault, (iii) offer Customer to immediately terminate the Contract and be refunded for paid Fees for the remaining contract term. The warranty is only valid provided that the Digital Services and Software are used strictly in accordance with the Contract and together with Connected Equipment. This warranty and the remedies provided in this Section 14 constitute Newtrax's sole and exclusive liability for any faults, defects and errors in the Digital Services and Software.
- 14.2 Newtrax does not warrant that the Digital Services or Software will be error-free, without bugs or otherwise uninterrupted, or that the Digital Services or Software will not affect or disrupt any information technology systems.
- 14.3 Newtrax makes no representation, warranty or statement concerning neither the suitability for any Customer-specific requirements, intended purpose or situation, nor the outcome, result, quality or efficiency of the Digital Services. It is the sole responsibility of Customer to determine and ensure that the Digital Services are relevant for Customer's business purpose and needs.
- 14.4 For the avoidance of doubt, warranties for any hardware and support services are provided in accordance with the Sandvik Mining and Rock Technology Standard Warranty applicable at the date of the Order Acceptance referred to in the Contract.
- 14.5 This section 14 shall survive the termination of this Contract. Any warranty claim must be notified in writing by the Customer to Newtrax within reasonable time from the relevant circumstances are discovered or should have been discovered.
- 15. Confidentiality**
- 15.1 Each party shall keep Confidential Information secret and shall not, without the other party's prior consent, disclose Confidential Information of the other party to a third party during the term of this Contract and thereafter for a period of ten (10) years. The receiving party agrees to use Confidential Information furnished by the other party only for the purposes of this Contract.
- 15.2 Notwithstanding the foregoing, Newtrax may disclose documentation and information furnished by the Customer to Newtrax Affiliates, subcontractors and advisors under conditions of confidentiality to the extent necessary to enable Newtrax to fulfil its obligations and/or exercise its rights under this Contract.
- 15.3 Neither party shall be liable for disclosing information if it was:
- public knowledge at the time of disclosure or thereafter becomes generally known other than through an act of negligence by the receiving party;
 - already known to the receiving party prior to its receipt from the disclosing party;
 - demonstrably developed at any time by the receiving party without any connection to the information received hereunder;
 - rightfully obtained by a Party from other unrestricted sources; or
 - disclosed with the prior written permission of the disclosing Party.
- 15.4 For the avoidance of doubt, any breach of this Section 15 shall always constitute a material breach of the Contract.
- 16. Suspension**
- 16.1 Newtrax may suspend access to or use of the Digital Services, in whole or in part, immediately without notice to Customer, if: (i) Customer has breached the Contract (including breach of the Acceptable Use Policy by an End User), (ii) necessary to stop an ongoing attack or prevent unauthorized access to the Digital Services, (iii) Customer's or End Users' use of the Digital Services poses a security risk to the Digital Services (or adversely impact the Digital Services) or any third party, (vi) Customer's or End Users' use of the Digital Services may subject Newtrax or any third party to liability, or (v) continued access or use by Customer or End Users may be prohibited pursuant to applicable legislation, (vi) Newtrax reasonably suspects abuse or fraudulent use of the Digital Services.
- 16.2 For the duration of suspension pursuant to Section 16, Customer will continue to be responsible for payment of Fees and for the use of any Digital Services not suspended.
- 17. Audit**
- 17.1 Subject to at least ten (10) Business Days' notice, Newtrax (or its Affiliates) or a Third Party appointed by Newtrax shall have the right to conduct audits at Sites or other Customer facilities or locations, in order to verify Customer's compliance with the Digital Terms. Such audit shall be performed during normal business hours and without unnecessary interruption to Customer's business operations. Newtrax agrees to ensure that all Newtrax representatives sign reasonable confidential undertakings and adhere to applicable safety policies.
- 18. Limitation of Liability**
- 18.1 The total liability of Newtrax to the Customer hereunder shall be strictly limited to 100% of the total Fees paid by the Customer under the Contract, or if no Fees have been paid by the Customer, then the total Fees payable by the Customer under the Contract. Newtrax's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Contract.
- 18.2 Newtrax and the Customer agree that, notwithstanding any other provision in this Contract, to the extent permitted by applicable law, neither party shall be liable (death or personal injury excluded) to the other for any special, consequential, incidental, indirect, exemplary, punitive or pure economic cost, loss or damage whatsoever, and shall not be liable for any loss of use, loss of production, loss of data, increased costs of production, loss of sales, loss of contract, loss of goodwill, loss of opportunity, loss of revenue, loss of profit or anticipated profit, or for any other like costs, losses or damage.
- 18.3 In addition to any other obligations of the Customer as specified in this Contract, the Customer shall be responsible for any reliance by the Customer on any information that the Customer receives as a result of the use of the Digital Services, together with any loss of data, breaches of security, viruses and disabling or harmful devices that the Customer may download or otherwise experience as a result of the Customer's use of the Digital Services.
- 18.4 Newtrax shall have no liability to Customer in any circumstance where the Customer has failed to ensure that its information technology equipment and its network infrastructure meet the Technical Requirements and Newtrax's instructions from time to time.
- 18.5 No limitation of liability or exclusion of liability provisions in this Contract shall operate or be construed to limit or exclude liability of either party in respect of personal injury or death, or for fraud, and all such provisions contained in this Contract shall be construed accordingly.
- 18.6 Customer shall maintain adequate product, business and professional liability insurance. In case any damages caused to Newtrax are covered by Customer's insurance policies, customer shall be obligated to forward any such paid-out amounts to Newtrax. For the avoidance of doubt, this obligation shall be valid regardless of whether the damage is indirect or direct or any other limitations.
- 19. Termination**
- 19.1 Each party may terminate this Contract immediately by written notice, if the other party is in breach of any of the terms of this Contract, and such breach has not been rectified within ten (10) Business Days from written notice.
- 19.2 Newtrax may terminate this Contract if Newtrax is prevented from providing the Digital Services due to substantially changed circumstances, e.g. in case continued provision is prohibited due to law, court decision or governmental order or if Newtrax's agreement with its cloud hosting provider is terminated. Customer shall in such an event be notified as soon as possible and be refunded for any paid Fees for the remaining contract term.
- 19.3 Upon expiry or termination of the Contract (regardless of cause), then:
- the licences granted to Customer hereunder are automatically and immediately revoked and Customer must immediately cease all use of the Digital Services and Software;
 - Customer will not be entitled to any refund of any Fees paid, except as explicitly stated in the Contract; and
 - Customer shall, at its own expense, deliver or destroy (and at Newtrax's option) all copies of the Software, any Newtrax Data, Confidential Information of Newtrax and/or other technical information which relates to the Software or Digital Services and which is in Customer's possession, custody or control at the time of termination.
 - If applicable, the Customer must give Newtrax access to the Site and/or Connected Equipment in order to perform any de-installation of the Digital Services.
 - Newtrax shall provide Customer with the possibility to download or retrieve Input Data for a period of thirty (30) days after the termination date.
- 19.4 Provisions that by their nature, sense and context are intended to survive the termination of this Contract (including Section 11 (Intellectual Property Rights), Section 12 (Data), Section 14 (Warranty), Section 15 (Confidentiality), Section 18 (Liability) and Section 24 (Governing Law and Disputes)) shall however survive the termination or expiration thereof.
- 20. Assignment**
- 20.1 Neither party may assign this Contract without the prior written approval of the other Party. Notwithstanding the foregoing, Newtrax shall always be entitled to assign the Contract to another Newtrax Affiliate without prior approval.
- 20.2 Customer acknowledges that the Digital Services and license granted hereunder are personal to

Customer and cannot be assigned or sub-licensed by Customer. The Customer undertakes to notify Newtrax if the Customer sells, leases, rents or otherwise assigns or transfers the Connected Equipment and notify any subsequent end user of Connected Equipment that continued use of Digital Services requires a separate license and contract between Newtrax and such end user. For the avoidance of doubt, this Contract and/or licenses granted hereunder do not follow the sale or assignment of Connected Equipment.

21. Subcontractors

21.1 Newtrax may engage one or more subcontractors to perform any and all of its obligations under this Contract. Newtrax shall remain responsible for all activities of subcontractors to the same extent as if such activities had been undertaken by Newtrax itself. Customer relationship remains at all times with Newtrax and Customer may consequently not direct any claims towards Newtrax's subcontractors.

22. Health and Safety Requirements

22.1 The Customer warrants that (i) it has appropriate health, safety and environment policies and procedures in place, (ii) access to the Site will not be unsafe, and (iii) it will ensure that, before allowing entry at the Site, Newtrax's personnel are given thorough and appropriate Site and safety introductions. Newtrax will provide reasonable notice to the Customer of intended visits to the Site in order to enable inductions and escorts to be provided.

23. Miscellaneous

23.1 The failure by either party to enforce any provisions of this Contract or to exercise any right in respect thereto shall not be construed as constituting a waiver of its rights thereof.

23.2 This Contract supersedes any and all other contracts, oral or written, between the parties hereto with respect to the subject matter hereof.

23.3 If any provision of this Contract would at any time be in conflict with any law or regulation compulsorily applicable to this Contract, the parties shall endeavour to amend such provision, so that the intent of this Contract may be carried out to the extent legally possible. The invalidity, because of any such law or regulation, of provisions of this Contract which are not fundamental to its performance shall not relieve any Party from its obligations under the other provisions of this Contract, nor deprive any Party of the benefits of such other provisions.

23.4 The Customer shall always notify Newtrax of any claim under the Contract as soon as reasonable possible and may under no circumstance, except as for provided for in mandatory legislation, bring a legal action arising out of or related to the Contract more than two (2) years after the cause of action arose.

23.5 Neither party is responsible for failure to fulfil its non-monetary obligations due to a Force Majeure Event. If a Force Majeure Event would however persist more than two (2) following months, each party shall be entitled to terminate the Contract with immediate effect. Each party will allow the other reasonable opportunity to comply before it claims the other has not met its obligations.

23.6 Where approval, acceptance, consent, access, cooperation or similar action by either party is required, such action will not be unreasonably delayed or withheld.

24. Governing law and Disputes

24.1 The laws of Queensland, Australia govern this Contract.

24.2 Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach,

termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Australian Centre for International Commercial Arbitration ("ACICA"). The arbitral tribunal shall be composed of three arbitrators. The seat of arbitration shall be Brisbane. The language to be used in the arbitral proceedings shall be English. Any court or authority having jurisdiction may enforce any arbitral awards.

24.3 All arbitral proceedings conducted under this Contract shall be kept confidential, and all information, documentation or material in whatever form disclosed in the course of such arbitral proceeding shall be used solely for the purpose of those proceedings.

25. Definitions

25.1 In addition to terms explicitly defined throughout the Contract, the following terms shall have the meaning set out below when used in the Contract with an initial capital letter:

"ABC-Laws" means the US Foreign Corrupt Practices Act, the UK Bribery Act 2010, and the anti-bribery laws of any territory in which a group company is incorporated or provides services to Newtrax or its Affiliates, in each case as amended from time to time and including any future superseding and/or similar legislation.

"Acceptable Use Policy" means the end user terms and conditions for use of the Digital Services, as amended from time to time and available at <https://newtrax.com/newtrax-digital-services-acceptable-use-policy/>.

"Affiliate" means a legal entity that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with a party (or its parent company, as applicable). For the purposes of this definition, "Control" means with regard to a legal entity the legal, beneficial or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the ownership interest (or similar rights to vote or control such entity or the equivalent right under contract to control management decisions) of such entity.

"Business Day" means Monday through Friday, excluding public holidays in Australia.

"Customer" means the customer contracting entity that orders the Digital Service from Newtrax and includes any permitted transferee.

"Contract" means the Order Acceptance, these Digital Terms, the Quote and the Order and any other document which is attached to or incorporated by

reference in the Order Acceptance, these Digital Terms or the Quote.

"Connected Equipment" means mining or construction equipment, machinery, computers and other equipment, which have remote monitoring hardware and software installed, connected, and/or activated by Newtrax or a Newtrax Affiliate for use of Digital Services pursuant to the Contract;

"Confidential Information" means all non-public, business-related or technical information, written or oral, whether or not it is marked as confidential or not, including the existence of this Contract and any information designated or marked as confidential (or if it is apparent from the circumstances that the information is confidential), any trade secret, know-how, invention, software program, source code, object code, application, documentation, contract, information, knowledge, data, Newtrax Data, database, process, technique, design, drawing, program, formula or test data, or other business information.

"Data Protection Legislation" means (i) if directly applicable, the *General Data Protection Regulation ((EU) 2016/679)*, and/or (ii) *Privacy Act 1988 (Cth)*, as amended or updated from time to time.

"Digital Services" means the digital services provided by Newtrax, as described in specifications and descriptions included in the Contract.

"Digital Terms" means these Newtrax Digital Terms.

"End Users" means Customer Affiliate, Customer employees or other individuals accessing or using Digital Services on Customer's behalf.

"Fees" means applicable charges for use of Digital Services, as specified in the Order Acceptance.

"Force Majeure Event" means a circumstance which impedes performance and is beyond the control of the party, the consequence of which could not reasonably have been overcome by the suffering party. Force Majeure Events shall be deemed to include acts of war, acts of terrorism, acts or omissions by a public authority, and similar circumstances.

"Input Data" means data that is generated, collected,

	<p>recorded or uploaded either by, from or in connection with, the Connected Equipment, including utilization information regarding the Connected Equipment and the standard industry data SAE J1939 but excluding any data or information regarding Newtrax's or a Newtrax Affiliate equipment control systems including how to achieve functional performance;</p>		<p>delivering the Digital Services or issuing the Customer with a document named 'Order Acceptance' (or similar).</p>
"Intellectual Property Rights" or "IPR"	<p>means all current and future intellectual property rights and know-how, including but not limited to patents and patentable rights, patents pending, inventions, continuations, enhancements, registered design, utility models, solutions, drawings, circuit diagrams, descriptions, methods, formulas, test plans, test procedures, test methods, technical designs, mask works rights, computer software, copyrights, trademarks (including service marks), technology, trade secrets, reports, calculations, drawings and design rights whether registered or unregistered, and including any application for registration and any registration of any of the foregoing, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these, which may subsist anywhere in the world.</p>	"Output Data"	<p>means the data created and provided by Newtrax to Customer as part of the Digital Services. Output Data consist of Input Data that has been processed by Newtrax, but excludes Newtrax Data and any data or information regarding Newtrax's equipment control systems including how to achieve functional performance;</p>
		"Newtrax Data"	<p>means aggregated and/or anonymous data which is created, generated, derived or produced by Newtrax or a Newtrax Affiliate based on (i) Input Data and/or Output Data, or (ii) otherwise created through the use of the Digital Services, such data never to contain any Personal Data.</p>
		"Site"	<p>means the mining sites and other approved sites for use of Digital Services, as specified in the Order.</p>
		"Software"	<p>means a computer program in executable object code format, made available or provided by Newtrax or a Newtrax Affiliate in connection with Digital Services.</p>
		"Technical Requirements"	<p>Means Newtrax's minimum requirements for use of Digital Services at the Site (e.g. infrastructure, IT, communications/networks and equipment), as specified in the Contract and/or as notified by Newtrax to Customer in writing from time to time.</p>
"Personal Data"	<p>has the meaning given in the General Data Protection Regulation ((EU) 2016/679) or any meaning given in analogous legislation in force in the location where the Digital Services are provided. Where the <i>Privacy Act 1988 (Cth)</i> applies, Personal Data means Personal Information under that Act;</p>	"Third Party"	<p>means any person or legal entity other than Newtrax, Newtrax's Affiliates, Customer, Customer's Affiliates and End Users.</p>
"Order"	<p>means the purchase order issued by the Customer to Newtrax for the Digital Services (and to the extent that the Customer's purchase order refers to or includes any of the Customer's terms and conditions, those terms and conditions are expressly rejected by Newtrax and do not form part of the Contract).</p>	"Quote"	<p>means the quote or proposal document issued by Newtrax to the Customer for the Digital Services.</p>
"Order Acceptance"	<p>means Newtrax's acceptance of the Order and consequent agreement to the Contract by either</p>		