



**EYEFI PTY LTD**

---

**CHANNEL PARTNER  
AGREEMENT**



## CHANNEL PARTNER AGREEMENT

### PARTIES

**EYEFI** EYEFI Pty Ltd ACN 114 673 684 of Building 1, 255 Wellington St, Collingwood, Victoria, 3066.

**Channel Partner** the entity or individual specified in Schedule 1.

### BACKGROUND

- (a) The Channel Partner provides services to various customers which consist of installing and managing devices that create and transmit data from various locations.
- (b) EYEFI has developed browser accessible software that receives and collates data created and communicated by Devices, and presents that data on a software-as-a-service web-based platform.
- (c) The Channel Partner wishes to provide its customers access to the EYEFI Platform so that those customers can access data from certain Devices relevant to the customer.
- (d) EYEFI has agreed to authorise the Channel Partner to provide its customers access to the EYEFI Platform on the terms of this agreement.

### AGREEMENT

#### 1. PLATFORM SERVICES

- 1.1 EYEFI will provide the Platform Services to the Channel Partner on the terms of this Agreement.
- 1.2 EYEFI will use its reasonable endeavours to provide the Platform Services in a proper and professional manner on a continuous basis, subject to the terms of this Agreement.
- 1.3 Except for the establishment fees as set out in the schedule, the Channel Partner is not obliged to order, offer to use, obtain, utilize or otherwise accept a minimum level of Platform Services from EYEFI at any time and without limiting the foregoing, EYEFI acknowledges and agrees that the Channel Partner's acceptance, ordering and/or utilisation of the Platform Services is at all times conditional upon the Subscriber in respect of which the Platform Services will be used agreeing to the Channel Partner's terms regarding the Platform Services which are in the sole discretion Channel Partner.

#### Subscribers

- 1.4 The Channel Partner is responsible for properly creating and removing Subscriber identities in



accordance with EYEFI policies from time to time.

- 1.5 EYEFI will provide the Channel Partner administration rights to access the EYEFI Platform to enable the Channel Partner to create and remove Subscriber identities and to create log-in access credentials for Subscribers which, in turn, will allow the Subscribers access to the EYEFI Platform.
- 1.6 The Channel Partner acknowledges that the EYEFI Platform has different permission levels which may allow different Subscribers to access different types of information, different reporting and/or different visual representations of information. At all times, the Channel Partner is responsible for setting and managing the permission levels for its Subscribers and for each respective Subscriber's Users.
- 1.7 The Channel Partner must procure agreement from each Subscribers (and their respective Users) that the Subscribers (and their respective Users) do not share or disclose Subscriber or User log-in access credentials to the EYEFI Platform with other Subscribers or Users affiliated with other Subscribers or third parties.. For the avoidance of doubt, each Subscriber may disclose log-in access credentials to its own Users as it sees fit however under no circumstances is EYEFI liable for any such disclosure.
- 1.8 Subject to clauses 3.3 and 3.4 (if applicable), if any acts or omissions of a Subscriber or User are causing the Channel Partner to be in breach of any material term of this Agreement or causing (or likely to cause) harm or degradation to EYEFI Intellectual Property or the reputation of EYEFI (each, a **Prohibited Consequence** and the relevant Subscriber or User, an **Improper Accessor**), EYEFI may, acting reasonably, and only if the acts or omissions of the Improper Accessor have not been remedied within 30 days' written notice by EYEFI to the Channel Partner, change the log-in access credentials or deny access to the EYEFI Platform to such Improper Accessor until such time as EYEFI considers (acting reasonably and having regard to all relevant circumstances) that the relevant Subscriber or User is not causing any of the Prohibited Consequences.

#### **Device and Device Activation**

- 1.9 For each Device to be represented on the EYEFI Platform, the Channel Partner must:
  - (a) ensure that the Device is approved in writing by EYEFI as a device suitable for the EYEFI Platform; and
  - (b) complete the Activation Process.
- 1.10 Upon the completion of the Activation Process, EYEFI will perform the Device Activation.
- 1.11 Unless otherwise agreed between the parties in writing, the Channel Partner:
  - (a) owns each Device and is entitled to use, either by way owning or otherwise, the associated Device Data (or, alternatively, may be owned by relevant Subscribers the fact of which does not reduce or waive any obligation of the Channel Partner under this Agreement);





- (b) is solely responsible for adding or withdrawing Devices from the EYEFI Platform and procuring all maintenance of the Device and releases EYEFI from all Claims against EYEFI that EWS may have to the extent that they arise from inaccurate Device Data; and
- (c) to the extent it has the right to do so, licenses to EYEFI the right to use Device Data for the sole purpose of providing the Platform Services to the Channel Partner (including its Subscribers and Users) and may, subject to further negotiation and the parties agreeing in writing, grant to EYEFI additional rights in relation to the Device Data;
- (d) will use reasonable endeavours to procure the right to use, and to licence to EYEFI, any other information the source of which is a Subscriber, that EYEFI requires to provide the Platform Services to the Channel Partner.

#### **EYEFI PlugIns**

- 1.12 The Channel Partner may request EYEFI to develop or implement EYEFI PlugIns in association with, or for use on, the EYEFI Platform. EYEFI will consider any such requests but is not required to provide the EYEFI PlugIns. Any such EYEFI PlugIns which are provided to the Channel Partner are an additional cost to the Channel Partner. Provision of the EYEFI PlugIns is subject to the prior written agreement between the parties in relation to the cost, details and work program and all other relevant details. Where no agreement is reached, EYEFI is under no obligation to provide the EYEFI PlugIns.
- 1.13 The parties will determine ownership of any new intellectual property contained within, or arising from, the EYEFI PlugIn (**PlugIn IP**) prior to commencement work on the EYEFI PlugIn. Where ownership of any PlugIn IP is not determined, EYEFI will be, and will be deemed to be, the owner.
- 1.14 Where the Channel Partner owns any PlugIn IP, it licenses that PlugIn IP to EYEFI for the purposes of providing the Platform Services to the Channel Partner.
- 1.15 EYEFI may set out the details and work program of an EYEFI PlugIn in Schedule 3.

#### **Storage and Processing Package**

- 1.16 The Platform Services Fee includes storage of Device Data, related information and computer processing capabilities provided by the Nominated Cloud Provider up to the Allocation Range at the Nominated Cloud Location.
- 1.17 Where the Channel Partner (or its respective Subscriber, User or Device) exceeds the Allocation Range the Channel Partner agrees to pay the Additional Range Fee.

#### **Nominated Cloud Location**

- 1.18 The EYEFI Platform application is hosted with the Nominated Cloud Provider and at the Nominated Cloud location. The Channel Partner may request EYEFI to change the Nominated Cloud Location. EYEFI will use reasonable endeavours to do so but is not obliged to do so and may refuse if, in EYEFI's reasonable opinion, such change to the Nominated Cloud Location may cause a breach of



law or is not practical for any technical reason.

- 1.19 If the Channel Partner requests the Nominated Cloud Location to be changed and such change is implemented, the Channel Partner:
  - (a) indemnifies EYEFI for any Claim arising from the change to the new Nominated Cloud Location; and
  - (b) will pay all additional costs incurred, or anticipated, by EYEFI in relation to such new Nominated Cloud Location.

#### **EYEFI Platform design and logo**

- 1.20 EYEFI is solely responsible for the layout and design of the EYEFI Platform, subject to any EYEFI Plugin. EYEFI may display EYEFI trade marks or other EYEFI branding on the EYEFI Platform and subject to prior written agreement between the parties, will include the trade mark or other branding of the Channel Partner in accordance with the terms of that prior written agreement.

### **2. PLATFORM SERVICES FEE**

- 2.1 From the commencement of this Agreement until it is terminated in accordance with clause 3, the Channel Partner must pay to EYEFI the Platform Services Fees.
- 2.2 As soon as practicable after the end of each month, EYEFI will provide the Channel Partner with a Tax Invoice setting out the Platform Services Fee.
- 2.3 The Channel Partner must pay the amount specified in each Tax Invoice within 7 days from the date of the invoice as a debt to EYEFI by the Channel Partner.
- 2.4 EYEFI may increase the Platform Services Fee annually with effect from 1 July in each year (**Review Date**) during the term of the Agreement by the percentage increase between the Consumer Price Index for All Groups Melbourne for the quarter that immediately precedes the previous Review Date (or, if there is no previous Review Date, the Commencement Date) and the Consumer Price Index for All Groups Melbourne for the quarter that immediately precedes the Review Date.
- 2.5 EYEFI may also, by 30 days' notice in writing to the Channel Partner, increase the Platform Services Fee if the cost of any Upstream Agreement increases. In such a case, the increase in the Platform Services Fee will be proportionate to the increase in Upstream Agreements.
- 2.6 Any Platform Services Fee increase will commence at the beginning of the following monthly billing cycle.

### **3. TERM AND TERMINATION**

- 3.1 This Agreement will commence on the date the last party signs this Agreement and continue until terminated in accordance with this clause 3.
- 3.2 Either party may terminate this agreement by giving 90 days' written notice to the other in





which case the Agreement will terminate 90 days from when the notice is given.

- 3.3 Without limiting the scope of any other clauses in this Agreement, EYEfi may terminate the Agreement if the Channel Partner has breached any material provision of this agreement and the breach has not been remedied within 30 days of written notice by EYEfi to the Channel Partner, such notice to specify the details of the breach and steps required for rectification.
- 3.4 The parties agree that, in the event the Channel Partner is unable to continue to provide its Subscribers and Users access to the EYEfi Platform due to the insolvency, administration, liquidation or bankruptcy of the Channel Partner EYEfi must, if directed in writing to do so by the Channel Partner, continue to provide Subscribers and Users access to the EYEfi Platform subject to those Subscribers entering into a binding contract with EYEfi on terms agreeable to EYEfi (acting reasonably) and which must contain provision for the Subscriber to pay EYEfi for such access. This obligation survives termination of this Agreement.

#### **4. OBLIGATIONS OF CHANNEL PARTNER**

- 4.1 The Channel Partner warrants:
  - (a) it will use reasonable endeavours to procure that Subscribers will, to the extent that provisions of this Agreement relates to Subscribers, agree to comply with those provisions;
  - (b) it will use reasonable endeavours to procure agreement from the Subscribers that Subscribers', use of the Platform Services does not cause EYEfi to breach any law;
  - (c) except as provided for in this Agreement, it will not and will procure that each Subscriber warrants that they will not, copy, reproduce, distributed, republish, download, display, post or transmit in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording or other means, any part of the EYEfi Material;
  - (d) it makes reasonable efforts to prevent unauthorised third parties from accessing or utilizing the Platform Services and that it will not disclose log-in access credentials to any person except its authorised employees, agents and contractors and to Subscribers; and
  - (e) it will not novate, assign, sublease or transfer to any other person any of its rights to use the Platform Services without the express written prior consent of EYEfi.

#### **5. EYEfi PLATFORM AND SUPPORT SERVICES**

- 5.1 All Platform Software remains the property of, or is licensed by, EYEfi at all times and the Channel Partner agrees that it will:
  - (a) and will procure that all Subscribers agree that they will, only use the Platform Software in accordance with the relevant intellectual property owner's specifications that have prior to use, been communicated in writing to the Channel Partner; and
  - (b) indemnify and hold EYEfi harmless against any loss suffered by EYEfi due to a breach by the Channel Partner of clause 5.1(a).



- 5.2 In its absolute discretion, EYEFI may, at any time without notice to the Channel Partner, upgrade, amend, alter or modify any part of the EYEFI Platform, provided that such action will not result in any material degradation in overall performance or interruption of the Platform Services.
- 5.3 EYEFI will provide the Support Services to the Channel Partner.
- 5.4 With respect to Service Levels, EYEFI agrees to meet or exceed the Service Levels.
- 5.5 Immediately upon becoming aware that Service Levels and/or the Platform Services are not met in any way, including where the cause is unknown or where the cause is due to a Supplier Breach (as defined by clause 6.2), EYEFI will:
  - (a) report such failure, and as soon as it is ascertainable, the means of rectification, to the Channel Partner; and
  - (b) in the case of:
    - (i) the Service Levels and/or Platform Services, implement the means of rectification; and
    - (ii) services that are not the Service Levels and/or Platform Services, provide reasonable assistance to the Channel Partner if possible, to implement the means of rectification.
- 5.6 EYEFI will maintain a notification system that operates 24 hours per day to give effect to its notification obligations in clause 5.5.
- 5.7 EYEFI will notify the Channel Partner of the service levels represented or published by the Nominated Cloud Provider relevant to the Platform Services (but does not warrant the accuracy or reliability of such Nominated Cloud Provider service levels).

## 6. THIRD PARTY SUPPLIERS

- 6.1 The Channel Partner acknowledges that components of the Resources are provided to EYEFI by third parties under agreements with EYEFI including the Nominated Cloud Provider (**Upstream Agreements**) and that EYEFI is reliant on the performance of these third parties to supply the Platform Services to the Channel Partner.
- 6.2 The following provisions apply where any interruption, failure or defect in the Platform Services is caused by an act or omission by a Supplier (**Supplier Breach**):
  - (a) EYEFI will use its best endeavours to have the Supplier remedy the Supplier Breach and in as expedient a manner as is possible; and
  - (b) neither the Channel Partner or any related party of the Channel Partner will be entitled to any Claim against EYEFI as a result of a Supplier Breach.

## 7. CONFIDENTIAL INFORMATION

- 7.1 Each party undertakes that it will not without the prior written consent of the other party,





either during the term of this Agreement or at any time thereafter (except in the proper course of its duties under this Agreement or as required by law or by the other party), disclose or allow its related bodies corporate, employees, agents and contractors to disclose to any person any Confidential Information of or relating to the other party of which it has become possessed as a result of or in relation to the supply of the Platform Services pursuant to the terms of this Agreement.

7.2 Nothing in this Agreement prohibits disclosure of information which:

- (a) is in the public domain;
- (b) after disclosure to a party becomes part of the public domain otherwise than as a result of the wrongful act of that party;
- (c) is received from a third party provided that it was not acquired directly or indirectly by that third party from a party to this agreement; or
- (d) is required to be disclosed by law or any government or governmental body, authority or agency having authority over a party.

7.3 Unless otherwise agreed by the parties in writing, on the termination of this Agreement for any reason, each party will return to the other party all property and documents of the other party which it holds, and destroy all electronic versions of such documents containing the other party's Confidential Information.

7.4 The obligations under this clause 7 survive termination of this Agreement.

## 8. **INTELLECTUAL PROPERTY**

- 8.1 All EYEfi Material, Meta Data and any associated Intellectual Property remains the property of EYEfi and nothing in this Agreement grants any other individual or entity any Intellectual Property rights in EYEfi Material except as expressly set out in this Agreement.
- 8.2 All Channel Partner Material and Confidential Information and any associated Intellectual Property remains the property of the Channel Partner and nothing in this Agreement grants any other individual or entity any Intellectual Property rights in the Channel Partner Material or its Confidential Information except as expressly set out in this Agreement.
- 8.3 The Channel Partner grants EYEfi a non-exclusive, revocable, global licence to exercise the Intellectual Property rights in the Channel Partner Material in connection with the provision of the Platform Services to the Channel Partner pursuant to this Agreement and to improve, enhance or modify the Platform Services and to also perform analysis on the Device Data, provided that EYEfi keeps the Channel Partner Material including the Device Data confidential and does not disclose the contents of it to any third party, except with the Channel Partner's prior written consent.
- 8.4 The licence granted under clause 8.3 does not include the right to sublicense to third parties or the right to sell the Channel Partner Material (including the Device Data) to third parties.





Notwithstanding that, EYEFI may sublicense to third parties the Intellectual Property rights in the Channel Partner Material if it obtains the Channel Partner's prior written consent to do so.

8.5 The Channel Partner warrants that it, and its Subscribers, will not:

- (a) infringe any Intellectual Property belonging to EYEFI or any Supplier;
- (b) copy, modify, reverse-engineer or appropriate the Intellectual Property comprised in the Platform Services, the EYEFI Platform or any EYEFI Plugins.

8.6 Despite any other provision of this clause 8, EYEFI must at all times comply with clause 7 (Confidential Information) and may only disclose Channel Partner Material (including any Channel Partner Confidential Information) to the extent it is necessary to provide the Platform Services to the Channel Partner pursuant to this agreement and if it obtains the prior written consent from the Channel Partner to do so.

## 9. NON-SOLICITATION

9.1 The Channel Partner agrees and warrants that it will not approach EYEFI's employees or contractors of EYEFI with an offer of employment or contract from the commencement of this Agreement until a date occurring no earlier than twelve months after the termination of the Agreement.

## 10. WARRANTY AND LIMITATION OF LIABILITY

10.1 To the maximum extent permitted by law, EYEFI is not liable for any Claim of or by the Channel Partner against EYEFI arising out of the Platform Services or the use to which the Platform Services are put or arising out of any deprivation of service or down time of the Platform Services to the extent that such Claim is caused by the negligence of or breach of this Agreement by the Channel Partner. The Channel Partner indemnifies and agrees to hold EYEFI, its officers and employees (**Those Indemnified**) harmless from and against all Claims which may arise as a result of or in connection with EYEFI's provision of the Platform Services to, or on behalf of, the Channel Partner to the extent that such Claims are caused by the negligence of or breach of this Agreement by the Channel Partner. EYEFI holds the benefit of this indemnity on trust for Those Indemnified and Those Indemnified will be entitled to rely on the indemnity (including but not limited to legal costs on a solicitor and own client or indemnity basis) prior to Those Indemnified having incurred and paid such costs.

10.2 To the maximum extent permitted by law, EYEFI's liability for breach of any term, condition, guarantee or warranty is limited to one or more of the following at EYEFI's option:

- (a) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or
- (b) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.



- 10.3 To the maximum extent permitted by law, EYEfi's maximum aggregate liability for all Claims under or relating to this Agreement, whether in contract, tort (including negligence), in equity, under statute, under an indemnity, based on breach or on any other basis, is limited to the amount paid to EYEfi for the provision of the Platform Services.
- 10.4 To the maximum extent permitted by law, the Channel Partner's maximum aggregate liability for all Claims under or relating to this Agreement, whether in contract, tort (including negligence), in equity, under statute, under an indemnity, based on breach or on any other basis, is limited to the amount paid to EYEfi for the provision of the Platform Services.
- 10.5 To the maximum extent permitted by law, EYEfi is not under any circumstances liable for:
- (a) special, indirect, consequential, incidental or punitive damages; or
  - (b) damages for loss of profits, revenue, goodwill, bargain, anticipated savings or loss, personal injury, death, the costs arising from the loss of use of the Platform Services or the costs of any substitute or the costs of any substitute Platform Services which the Channel Partner obtains.
- 10.6 If the Australian Consumer Law applies to this Agreement, the following paragraph applies:
- Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 10.7 In circumstances where EYEfi is providing Platform Services or any related service or product to the Channel Partner for testing, verification, trial application or examination purposes or in respect of that part of the Platform Services where the Channel Partner is not paying the Platform Services Fee, the parties acknowledge and agree that EYEfi has no liability whatsoever.

## **11. GST**

- 11.1 All amounts in this Agreement exclude GST unless stated otherwise.
- 11.2 If GST is or becomes payable on a Taxable Supply made under or in connection with this document, the party providing consideration for that Taxable Supply (recipient) must pay an additional amount equal to the GST payable on the Taxable Supply at the same time as paying the Taxable Supply.

## **12. DISPUTES**

- 12.1 If a dispute arises in anyway in connection with this agreement, a party must not start legal proceedings until the mediation procedure specified in Clause 12.3 has been completed. However, a party may apply to the Court for urgent interlocutory relief even if the mediation procedure has not started or been completed.





12.2 The parties must in all circumstances endeavour in good faith to resolve any such dispute or difference expeditiously.

12.3 The mediation procedure is:

- (a) any party may start mediation by serving a mediation notice on the other, stating briefly and clearly the nature of the dispute;
- (b) when the other party receives the mediation notice, all parties must try to agree on a mediator. If they fail to agree within 14 days of service of the mediation notice, any party may apply to the President of the Law Institute of Victoria or his or her nominee who shall appoint a mediator;
- (c) the parties must pay in equal proportions the mediator's fees;
- (d) the mediation shall take place in person at a location in Melbourne, Victoria;
- (e) the Parties must comply with the mediator's instructions about the conduct of the mediation;
- (f) if the dispute is settled by mediation, each party must sign the terms of settlement, which will bind the parties and override the terms of this Agreement if there is any conflict; and
- (g) if the dispute is not settled within 21 days after the mediator has indicated to the parties acceptance of the appointment (or within any other period the parties agree in writing), the mediation must cease.

12.4 Any terms of settlement may be used in evidence in any court proceedings.

12.5 Excepting clause 12.4, the mediation procedure is confidential and nothing the parties or the mediator say or do during the mediation procedure and no documents concerning the dispute created for the mediation procedure, may be used in or required to be produced in any court proceedings.

### **13. NOTICES**

13.1 All notices given under this document must be in writing and may be delivered in person or by mail specified in the address for the party set out in this document.

13.2 A notice sent by post will be deemed received three days after posting.

13.3 A party may change its particulars for service by notice in writing to the other parties.

13.4 A notice sent by facsimile transmission will be deemed received on the date stated on the facsimile transmission report produced by the machine sending the facsimile.

### **14. GENERAL**





- 14.1 The provisions of this document and every part of each provision will be severable and If any provision is found to be unlawful, void or unenforceable, then that provision will be read down to the extent necessary such that it does not infringe any law or is not otherwise void or unenforceable so as to give it a valid operation of a partial character.
- 14.2 Nothing in this document will constitute or be deemed to constitute the relationship of principal and agent or partnership between EYEfi and the Channel Partner.
- 14.3 This document will be construed in accordance with the laws in force in Victoria, Australia and the parties submit to the jurisdiction of the Courts of Victoria, Australia.
- 14.4 Any reference to a party in this document includes, and any obligation or benefit under this document will bind or take effect for the benefit of, that party's executors, trustees, administrators, successors in title and permitted assigns.
- 14.5 This document represents the entire agreement between the parties and supersedes all prior representations, agreements, statements and understandings between the parties.
- 14.6 No amendment to this document has any force unless it is in writing and signed by the parties.
- 14.7 An obligation of two or more persons under this document binds them jointly and severally and every expressed or implied agreement or undertaking by which two or more persons derive any benefit in terms of this document will endure for the benefit of those persons jointly and severally.
- 14.8 The failure of a party to this document to enforce a provision or the granting of any time or indulgence will not be construed as a waiver of the provision nor of a waiver of the right of the party at a later time to enforce the provision.
- 14.9 This document may consist of a number of counterparts and if so the counterparts taken together constitute one and the same instrument.

## **15. SPECIAL CONDITIONS**

- 15.1 The conditions set out in Item 6 of Schedule 2 apply to this Agreement provided that under no circumstances shall the Special Conditions derogate from the rights and obligations set out in clauses 8 and 10.

## **16. INTERPRETATION AND DEFINITIONS**

- 16.1 In this document:
  - (a) words in the singular include the plural and vice versa;
  - (b) words indicating any gender indicate the appropriate gender;
  - (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;



- (d) a reference to a person is to be construed as a reference to an individual, body corporate, unincorporated association, partnership, joint venture or government body;
- (e) references to any document (including this document) include references to the document as amended, consolidated, supplemented, novated or replaced;
- (f) a reference to a law or statute includes a reference to or citation of all enactments amending, substituting or consolidating the law or statute;
- (g) any Schedule or Annexure forms part of this document; and
- (h) headings are included for convenience only and do not affect interpretation of this document.

16.2 The following definitions apply:

<b>Activation Process</b>	means the process of activating a Device for the EYEfi Platform as further set out in Item 5 of Schedule 2.
<b>Additional Range Fee</b>	means the fee payable by the Channel Partner as a result of exceeding the Allocation Range, the costs of which are set out in Item 2 of Schedule 2.
<b>Agreement</b>	means this agreement and any Schedules.
<b>Allocation Range</b>	means the specifications listed in Item 1 of Schedule 2.
<b>Claim</b>	means an immediate and ascertained claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered however arising.
<b>Confidential Information</b>	<p>means all information which is not in the public domain and which is reasonably regarded by a party as confidential to it and which the other party becomes aware of in the course of this Agreement, including, but not limited to, information relating to:</p> <ul style="list-style-type: none"><li>(a) business methods and management systems;</li><li>(b) financial and business information of any kind; and</li><li>(c) strategic information relating to marketing, advertising, or any other aspect of business.</li></ul>
<b>Channel Partner Material</b>	means the Device Data provided by the Channel Partner to EYEfi for the purposes of providing the Platform Services in accordance with this Agreement but excluding Meta Data.
<b>Device</b>	means an item of hardware (approved by EYEfi), provided by the Channel



	Partner, and which is capable of "IOT" communications suitable for the EYEFI Platform.
<b>Device Activation</b>	means the process of activating a Device so that the Device can communicate with the EYEFI Platform.
<b>Device Activation Fee</b>	means the fee payable by the Channel Partner for each Device which undergoes Device Activation, as set out in Item 2, Schedule 2.
<b>Device Data</b>	means the information made available by each Device and transmitted to, and recorded by, the EYEFI Platform.
<b>Device Fee</b>	means the fee payable by the Channel Partner for each Device which is activated and observable on the EYEFI Platform, as set out in Item 2, Schedule 2.
<b>Equipment</b>	means the computer equipment used from time to time in providing the Platform Services.
<b>EYEFI Material</b>	means the Platform Software, EYEFI Confidential Information, documents, software, object code, source code, configurations, design and look of the EYEFI Platform, Equipment, reports, technical information, studies, plans, charts, drawings, calculations, tables, and schedules of EYEFI.
<b>EYEFI Platform</b>	means the EYEFI online computing platform, which is web browser accessible, and which the Channel Partner may:  (a) upload information from Devices; and (b) allow Subscribers access to information regarding the Devices; and (c) access other facilities of the EYEFI platform as agreed between the parties from time to time.
<b>EYEFI Platform Access Fee</b>	means the fee payable by the Channel Partner to access the EYEFI Platform (regardless of the quantity of Devices) as set out in Item 2 of Schedule 2.
<b>EYEFI Plugins</b>	means additional features or capabilities made available to the Channel Partner (and its Subscribers) through, or in conjunction with, the EYEFI Platform at the request of the Channel Partner and that are chargeable on a per Subscribers and/or per Device basis.
<b>GST</b>	has the same meaning as in the GST Act.
<b>GST Act</b>	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> .
<b>Intellectual Property</b>	means all intellectual property rights including but not limited to the following rights:  (i) patents, copyright, rights in circuit layouts, registered designs, trade





marks, industrial rights, trade secrets and any right to have Confidential Information kept confidential; and

(ii) any application or right to apply for registration of any right referred to in sub-paragraph (i).

<b>Meta Data</b>	means information pertaining to or describing the Device Data but not the Device Data itself or the Channel Partner's Confidential Information. For example, data which aggregates or summarises the Device Data is Meta Data but individual data sets from a Device is not Meta Data.
<b>Nominated Cloud Provider</b>	means the third party provider of the cloud services identified in Item 3 of Schedule 2.
<b>Nominated Cloud Location</b>	means the location of computer servers at which the Nominated Cloud Provider will store and process Device Data for the purposes of the EYEFI Platform and which is stated in Item 4 of the Schedule 2.
<b>Operations</b>	means the storage and backup practices, company email and application practices, internet security and antivirus protection used by, or used by those engaged by, EYEFI to provide the Platform Services.
<b>Platform Services</b>	means the services described in background item (b) offered to the Channel Partner (and, via the Channel Partner, the Subscribers and the Subscriber's Users) including the Device Activation and applicable EYEFI Plug-Ins.
<b>Platform Services Fee</b>	means the fees payable by the Channel Partner to EYEFI in accordance as set out in Item 2 of Schedule 2.
<b>Platform Software</b>	means the computer software and cloud based applications provided, used or hosted by EYEFI in providing the Platform Services.
<b>Resources</b>	means Equipment, Platform Software, Operations, Upstream Agreements, and any other services or goods required to enable EYEFI to provide the Platform Services.
<b>Service Levels</b>	means the quality and standard of the Platform Services and which may be further detailed in Item 7 of Schedule 2. For the avoidance of doubt, "Service Level" does not include services provided by third parties including the Nominated Cloud Provider.
<b>Support Services</b>	means the support services available to the Channel Partner as set out in Schedule 5.
<b>Subscriber</b>	means a customer of the Channel Partner.
<b>Taxable Supply</b>	has the same meaning as in the GST Act.



<b>Tax Invoice</b>	has the same meaning as in the GST Act.
<b>Upstream Agreement</b>	has meaning given to it in clause 6.1.
<b>User</b>	means an employee or authorised agent of a Subscriber who accesses the EYEfi Platform in accordance with this Agreement.

\* \* \* \* \*



## SCHEDULE 1

---

### Channel Partner

Name: Emergency Warning Systems Ltd.....

ACN / ABN: 30092605591.....

Business Address: 1A Weston St, Balwyn, VIC 3103, Australia

.....

.....

Postal Address: As above .....

.....

.....

Primary Contact: [REDACTED] .....

Email: [REDACTED] .....

Phone: [REDACTED] .....





## SCHEDULE 2

### Item 1 Allocation Range (Baseline Specification)

The EYEfi Cloud application (EYEfi Platform) is configured for failover and redundancy, with load balancing across two or more instances of the application(s) and database(s) installed in one Nominated Cloud location.

Subject to the Data Assumptions in Schedule 4, the baseline configuration is as follows;  
Bandwidth and Storage (per device/per month);

Up to 180mb Bandwidth  
Up to 145.5mb Storage  
Up to TBA GB internet traffic per month

Data Retention Time;  
1 year for all device data

Data Backup;  
Not included. 1TB S3 To be defined by the Channel/Customer (additional cost if required)

### Item 2 Fees and Invoicing

NOTE: Tiered pricing and TBA's, Data Assumptions etc to be determined during trials based on usage data provided by the Channel Partner

Item	Description	Unit	Once Off Cost	Ongoing Cost
1	Channel Partner Establishment Fee	Per Channel Partner	N/A	N/A
2	Platform Establishment / Access Fee	Per Subscriber/Customer	\$5,000	\$450
3	Device Activation / Subscription Fee	Per Device (<100 Devices)	\$150	\$17
4	Pilot/Trial Fee (up to 10 devices, 90 days maximum)	Will be deducted from Item 2 if the pilot transitions immediately to a contract term	\$1,500	
5	Internet/ Bandwidth/Data Fee	Per 100 MB	TBA	TBA
6	Additional Range Fee	Per Device	TBA	TBA
7	Professional Services (Developer)	Per Day	\$1,440	
	<b>Tiered Pricing</b>			
8.1	Device Activation / Subscription Fee	Per Device (101 - 250 Devices)	TBA	TBA
8.2	Device Activation / Subscription Fee	Per Device (251 - 500 Devices)	TBA	TBA
8.3	Device Activation / Subscription Fee	Per Device (501 - 750 Devices)	TBA	TBA
8.4	Device Activation / Subscription Fee	Per Device (751 - 1000 Devices)	TBA	TBA
8.5	Device Activation / Subscription Fee	Per Device (1000+)	TBA	TBA



EYEfi will provide a monthly invoice (1<sup>st</sup> of the month) to the Channel Partner calculated on a pro rata basis, using the above rates and based on the number of active Subscribers/Customers and Devices active on the system during the period. Once off fees will be invoiced upon service activation, recurring fees invoiced monthly in arrears as above.

**Item 3**            **Nominated Cloud Provider**  
Amazon Web Services, Inc.

**Item 4**            **Nominated Cloud Location**  
Sydney, Australia

**Item 5**            **Activation Process**

EYEfi to provide the Channel Partner with EYEfi Platform administration capabilities, to enable the Channel Partner to add/remove and manage Subscribers, Users and Devices.

Device Activation (QR Codes optional for 3<sup>rd</sup> party, non-EYEfi hardware):

- a) EYEfi to provide the Channel Partner with a quick response code (located in EYEfi Cloud Device Admin page) linked to an individual Device page
- b) Channel Partner to print out and affix the linked quick response code to the Device.
- c) Channel Partner to securely install the Device and scan the quick response code on the Device using visual scanning software approved by EYEfi
- d) Once off fees will be invoiced upon activation, recurring fees invoiced monthly in arrears (See Schedule 2, Item 2)

Subscriber/Customer and User Activation:

- a) Channel Partner will select Pilot/Production Term for a Subscriber, and the system will generate a license key which is emailed to the Admin User who then applies the key within EYEfi Cloud for the given Subscriber.
- e) Subscriber/Customer and Device activations – Once off fees will be invoiced upon activation, recurring fees invoiced monthly in arrears (See Schedule 2, Item 2)

**Item 6**            **Special Conditions**

Mutual branding;

- EWS grants a revocable, non-exclusive, global licence to EYEfi, for EYEfi to use the logo EWS provides to EYEfi as directed by EWS in writing in conjunction with the Radiolert Plugin\_\_\_\_
- EYEfi attribution to be added to EWS marketing materials by adding the words "Powered by EYEfi"

EWS compatible/supported hardware;

- FM80M Mobile unit Hardware Revision 5, and Firmware Revision #1400
-



## Item 7      Service Levels

The EYEfi Application has been built to a baseline specification that provides a Service Level Availability (access to the Platform) target of 99.97%

This SLA level of 99.97 % uptime/availability gives the following periods of potential downtime/unavailability:

Daily: 25.9s

Weekly: 3m 1.4s

Monthly: 13m 8.9s

Yearly: 2h 37m 47.1s

This does not include Scheduled Maintenance periods (for EYEfi Cloud system updates or upgrades etc) which occur on a quarterly basis (or as often as required) and may be up to two hours in duration. EYEfi will notify the Channel Partner when this is occurring, via the System Status Dashboard and/or email.

Where an update or maintenance involves the Radiolert Plugin, EYEfi and the Channel Partner will agree to a suitable time for this activity to occur.





### SCHEDULE 3

---

#### High level description of the Radiolert Plug-in for EYEfi Cloud

- Monitoring and tracking (show current location) of mobile units on the map
- Retrieve and save unit configurations, including audio messages
- Retrieve and save unit logs
- View unit Status

Detailed agreed functional description can be found here;

[https://3.basecamp.com/3985273/buckets/7178133/uploads/1059593862/download/EYEfi%20-%20EWS%20Plugin%20Function%20List%20270418%20\(Final\).xlsx](https://3.basecamp.com/3985273/buckets/7178133/uploads/1059593862/download/EYEfi%20-%20EWS%20Plugin%20Function%20List%20270418%20(Final).xlsx)



Adobe Acrobat  
Document



## SCHEDULE 4

---

### Data Assumptions

#### Bandwidth:

- 1 unit @ 10 sec intervals ~40kb per hour (add 20% for overhead) = 48kb per hour
  - 1 day = ~1.152mb
  - 28 days = ~32mb
- Software update files ~450kb (add 20% for overhead) = ~540kb
  - Assume weekly update at most in 28 day period = ~2.160mb
- Config files – assume largest at 40mb (add 20% for overhead) = ~48mb
  - Assume once per 28 day period = 48mb
- Log files – assume ~3mb (add 20% for overhead) = ~3.6mb
  - Assume daily transfer over 28 days = ~100.8mb

#### Total Bandwidth per unit:

- 1 day = ~6mb
- 28 days = ~168mb

#### Storage:

- Software update files ~450kb (add 20% for overhead) = ~540kb
- Config files – assume largest at 40mb (add 20% for overhead) = ~48mb
- Log files – assume ~3mb (add 20% for overhead) = ~3.6mb
- Snapshots - ??

#### Total Storage per unit:

- 1 day = 4.85mb
- 28 days = 135.8mb
- 365 days = 1,362.54mb (assumes config and software update files are static after initial upload / replacement)
  - This also assumes that logs are kept for a year or more. Logs can be offloaded to S3 storage



## SCHEDULE 5

---

### EYEFI Platform Support Services

#### Item 1 Support

EYEFI will support the Channel Partner using EYEFI's online Helpdesk ticket system and resources, on the following basis;

- (a) The Channel Partner is required to provide its Subscribers with Level 1 support for the EYEFI Platform (EYEFI Cloud Application), and Level 1 and 2 support for the EWS Radiolert Plugin
- (b) EYEFI will provide Level 0 (In-App Help) and Level 2 and 3 Support to the Channel Partner on a best-effort basis, for escalated issues relating to the EYEFI Platform, Plugins and any 3<sup>rd</sup> party/upstream services (Notification only for 3<sup>rd</sup> party/upstream services), with response and resolution being provided to the Channel Partner directly
- (c) EYEFI will provide response to a service request (via [helpdesk@eyefi.com.au](mailto:helpdesk@eyefi.com.au)) by the Channel Partner, on the Next Business Day, week days and during business hours (9am – 5pm AEST)
- (d) EYEFI will maintain the EYEFI Cloud Platform with routine patches and upgrades during the term of this agreement, and bug fixes to issues reported by the Channel Partner or those proactively identified by EYEFI. However, any other service requests such as those relating to new features, enhancements, software development or MAC's (eg. Additional or new functionality, hardware support due to changes in firmware by the hardware vendor, moves, adds or changes etc) will be first assessed by EYEFI, and if agreed to with the Channel Partner, will be implemented by EYEFI using the Rates in Schedule 2 of this Agreement.
- (e) EYEFI will provide the Channel Partner with the ability to monitor and restart any critical processes within the EYEFI Cloud application that relate to the EWS Radiolert Plugin (eg. MQTT Broker).

#### Item 2 Support Levels (ITIL methodology based)

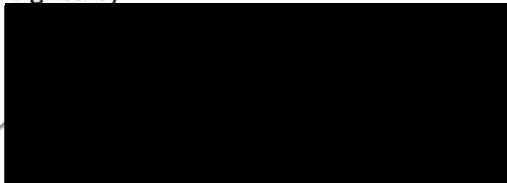
- a) Level 0 – Self-help, or in-app contextual help (?) resolved by user on their own
- b) Level 1 - Is the initial support level responsible for capturing and defining the basic customer issue, providing basic support of the application/plugin or device hardware, and providing resolution to the End User/Subscriber via email, phone or other means
- c) Level 2 – Is escalated support from Level 1, providing more advanced in-depth technical support such as deeper problem analysis, investigation and resolution notification to the End User or Channel Partner. This may involve software or firmware issues/bugs that need to be established, defined and reported/fixed.
- d) Level 3 – is the highest level of support in a three-tiered technical support model responsible for handling the most difficult or advanced problems. Typically involves the vendor investigation of back-end related issues, software and firmware issues





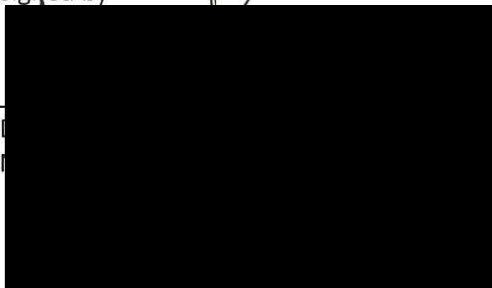
EXECUTED AS AN AGREEMENT ON 30/01/2019 \_\_\_\_\_

EXECUTED by EYEFI PTY LTD )  
ACN 114 673 684 pursuant to the )  
Corporations Act 2001 (Cth) by being )  
signed by )



*If the Channel Partner is a company, execute here:*

EXECUTED by Emergency Warning )  
Systems Ltd ACN 092 605 591 pursuant to )  
the Corporations Act 2001 (Cth) by being )  
signed by )



\_\_\_\_\_  
Director/Secretary  
Name:

*If the Channel Partner is an individual, execute here:*

SIGNED by THE CHANNEL PARTNER in the )  
presence of: )

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Witness  
Name