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Micromine Alastri Software Licence Agreement

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1. Engagement

1.1 Engagement

Micromine agrees to provide the Client with the Software Product Licences and consulting services described in the Proposal Details, on the terms set out in the Proposal Details and these terms and conditions. The Proposal Details and these terms and conditions constitute the entire agreement between Micromine and the Client, and supersede all previous negotiations, or agreements, in any form.

1.2 Validity of Proposal

The Proposal Details are valid for acceptance for a period of 30 days from their date. After that time, Micromine reserves the right to alter the Proposal.

2. Product Descriptions

Micromine currently provides the following Software Products:

2.1 Rapid Reserver

Used for the creation of scheduling reserves, blast masters, geological blockouts, and dig lines. Rapid Reserver allows Users to quickly build pit solids, split them by bench, design blast shapes, and split blasts into dig/grade control blocks. Closed, valid solids are automatically generated along the way and are reserved against the specified block models. Rapid Reserver outputs solids, polygons, and block model reserves for use in short-, medium- and long-term mine planning.

2.2 Haul Infinity

Used for the design of haulage networks, and calculation of travel and cycle times. Haul Infinity can be used standalone, with the supplied Excel integration module, or inside Micromine's mine scheduling products. It is used for short-, medium-, and long-term mine planning including equipment selection studies, haulage studies, and scheduling.

2.3 Tactical Scheduler

Designed for 3-month to 50-year detailed open pit metals scheduling with integrated haulage, product optimisation, stockpiling, and dump sequencing. Tactical Scheduler features an easy-to-use linear workflow that makes model configuration simple for even novice engineers and unique scenario-based scheduling which allows Users to quickly create and compare scenarios with 3D animations and with customisable reports.

2.4 Production Scheduler

Designed for two-week scheduling, with applicability to the daily and monthly production space, Production Scheduler focuses on rapid detailed scheduling with immersive 3D visualisation. Production Scheduler features a guided workflow, multi-activity scheduling, hybrid Gantt-3D sequencing, multi-scenario analysis, 3D animations and plots, and easily configurable reporting.

2.5 Spatial Conformetrics

Used to measure spatial conformance to the plan in a fast and repeatable workflow. Spatial Conformetrics allows Users to compare actual production vs planned production spatially and report the plan conformance

in quantitative and qualitative terms in conjunction with block model reserves. Generation of conformance solids is 100% reliable and uses an algorithm that is orders of magnitude faster than traditional methods.

3. Software Licensing

3.1 Licence

Upon your entry into this Contract, you are granted a right to install the Software Product as set out in the Proposal Details and use it in order to process your own data with the Software Product. Micromine grants the use of the Software Product according to one of the licence types below, depending on the licence type you purchased.

- a. **Concurrent User Licence (Standalone Product):** For each single product Concurrent User Licence purchased, Micromine grants to you one (1) non-transferable, non-exclusive, royalty-free licence to use copies of the single Software Product (as set out in the Proposal Details) and install that Software Product on the Client's machine(s) for the Client's internal use. With each concurrent license, the Software Product may be run on only one of your computers (or virtual computer clients) at a given time, with a single User logged in to the software (a User may, however, run multiple instances of the Software Product on the same computer). Further, use of the software product on computers not owned by the Client or Micromine is not permitted.
- b. **Concurrent User License (Bundle):** For each bundle Concurrent User License purchased, Alastri grants to you one (1) non-transferable, non-exclusive, royalty-free license to use copies of the Software Products included in the bundle and install such Software Products on the Client's machine(s) for the Client's internal use. For each concurrent license, the bundled Software Products may be run on only one of your computers at a given time, with a single User logged in to those Software Products (a User may, however, run multiple instances of the bundled Software Products on the same computer). If a User is logged in to one of the bundled Software Products, none of the bundled Software products may be used by another User or on another computer. Sharing of log-ins, and networking of the Software Products in a manner to avoid this restriction (such as running them on a server with remote access given to different Users) is not permitted. Further, use of the software product on computers not owned by the Client or Alastri is not permitted.

3.2 Licence Seats and Programs

- a. Alastri's Software Products are licensed using a concurrent User model. Each purchased Licence grants the Client an additional Seat, which may be filled by any registered User of the Client. Only one User can occupy a Seat at a time. If there are no remaining unoccupied Seats, no additional Users will be able to use the Software Product (or bundle of Software Products). However, once a User ceases using the Software Products or bundle, the Seat becomes available for a different User to take their place.
- b. Each Seat allows a User to run all of the programs associated with that Seat. There is no limit to the number of instances of each program (and different programs) associated with the Seat that the User can run at once on the User's computer but note that a User can only use one computer at a time. A Seat therefore can only be active/logged in on a single computer at any time.
- c. The programs that each type of Seat can run are shown in the table below.

Seat	Program				
	Haul Infinity	Rapid Reserver	Tactical Scheduler	Production Scheduler	Spatial Conformetrics
Conformance Standalone					X
Haulage Standalone	X				
Reserving Standalone		X			
Production Scheduling Bundle	X	X		X	
Tactical Scheduling Bundle	X	X	X		

- d. With a Tactical Scheduling Seat, a User is permitted to run Haul Infinity, Rapid Reserver, and Tactical Scheduler with as many instances of each open as desired. Note that if a User is using a Tactical Scheduling Seat and opens only Haul Infinity, no other Users can use that Seat for the other programs at the same time because the Seat has been taken.
- e. With a Production Scheduling Seat, a User is permitted to run Haul Infinity standalone, Rapid Reserver standalone, and Production Scheduler with as many instances open as desired. Note that if a User uses a Production Scheduling Seat and opens only Haul Infinity, no other Users can use that Seat for the other programs at the same time because the Seat has been taken.
- f. It is permitted for a single User to occupy multiple Seats. For example, if a Client has a Reserving Seat and a Haulage Seat, a single User is allowed to open both programs. In this case, the one User will be occupying both Seats.

3.3 Licence Restrictions

- a. There are several restrictions on how Licences may be shared. Seats can only be used within a single company, region, and commodity.
- b. There is no limit to the number of registered Users within the Client, and there is no charge to add an additional User.
- c. A Seat cannot be shared across companies. For example, it is not permitted to create a service bureau where one Client purchases a dozen Seats, and then it rents them out to various other companies (even if within a corporate group).
- d. A Seat is locked to a single region, where the regions are defined as one of:
 - i. APAC - Asia Pacific
 - ii. EMEA - Europe Middle East Africa
 - iii. Americas - North and South America

However, flexibility is allowed in a situation where the mine is in one region and the head office is in another region. For example, it is permitted to share a single Seat between a mine located in Ghana and a head office located in Vancouver. But it is not permitted to share a single Seat between a mine located in Ghana and another mine located in Peru.

- e. A Seat cannot be shared across commodities, even within a single Client and a single region. For example, it is not permitted to share a single Seat between an iron ore mine in Western Australia and a coal mine in Queensland, Australia, even though these two mines might be owned by the same Client and are in the same region.

- f. The Client, region and commodity are set out in the Proposal Details. You are obliged to ensure that they are set out correctly.
- g. The Client will not access, use, or (directly or indirectly) allow use, of the Software Product in, from, or for the benefit of any party in a Prohibited Jurisdiction.

3.4 Licence Access

- a. **EULA:** By you or any of your Users installing, accessing or using a Software Product, you and the User agree to the Micromine Alastri EULA, and you agree to ensure that each of your Users is provided with a copy of the EULA, and agrees to and complies with the EULA.
- b. **Licence Management and Locking:** The licensing system is managed through the internet, on secure servers hosted on Microsoft Azure accessed using SSL encryption. Therefore, reliable internet access is required to use the Licences.
- c. If a User requires access to the Licence for a period and knows in advance that internet access will be unavailable or intermittent (such as on an airplane or at a remote site), the User can check out the Seat for an extended period during which time internet access is not required. However, it is not permitted to check the Seat back in early, so this function should be used judiciously. To prevent Users from locking out Seats for extended periods with the intention of ensuring their own continuous access to the Seat, this feature can be disabled, or the maximum duration of the checkout reduced to a level deemed acceptable by the Client.

3.5 No Third-Party Rights

- a. The Licence is granted to the Client, and it and the rights under it may not be assigned, transferred or sub-licensed by the Client to any person or entity. If the Client sells the whole of the business in respect of which the licence is granted, on application by the Client and the purchaser, Micromine may, in its absolute discretion, agree to novate the Licence to the purchaser.
- b. The services and Micromine Materials prepared for or provided to the Client under this Contract are for the Client's own use in accordance with these terms and conditions, and not for the use of any third parties.

3.6 Automatic Updates

Updates to the Software Products become automatically available and distributed via internet services to all active Users during the rental or subscription term, including:

- a. Major releases with new features and functionality
- b. Minor releases with bug fixes for stability and speed

If the Software Product was purchased outright (Legacy Clients only), updates and new versions were made available free of additional cost for a period of one year following the purchase of the Software Product. Thereafter, this is only provided if the Client has entered into a maintenance, rental or subscription agreement with Micromine, and then for the period of that maintenance, rental or subscription agreement.

3.7 Licence Exchange

Any copy of the Software Product that is an upgrade from an earlier version of the Software Product is provided to you on a Licence exchange basis. You agree by your installation and the use of such copy of the Software Product that you will not continue to use or permit any other person to use the earlier version of the Software Product.

The restrictions in this clause do not apply where both:

- a. The Client agrees usage of the old version is entirely at its own risk, without any support or warranties of any kind; and
- b. The Client ensures that the number of Users using either version does not at any time exceed the number of seats the Client has licensed.

3.8 Conversions

If you convert a previous purchased Licence to a subscription or rental Licence, the right to use the Software Product will cease at the end of the subscription or rental period (unless renewed) even if a Licence for an earlier version of the Software Product was purchased.

3.9 Licence Periods

Micromine's software is licensed by Seat, as described in section 3 above. There are three options for acquiring Micromine's software:

- a. **Monthly Rentals** are paid in advance each calendar month and entitle the Client to access to the Licence for a full month. The Licence will automatically deactivate at the end of the month (unless the Client renews it). As long as the rental fee continues to be paid, the Client will receive updates as they are made available and support as set out in this Contract.
- b. **Annual Rentals** are paid in advance each year and entitle the Client to access to the Licence for a full year. The Licence will automatically deactivate at the end of the full year (unless the Client renews).
- c. **Subscriptions** are available under a 3-year or 5-year contract. The Client agrees to pay all subscription fees for the whole term. The annual subscription payments are made at the beginning of each year over the term of the Licence. The Client may continue to use the Software Product for the agreed term of the subscription, provided that each instalment of the subscription fee is paid by each anniversary of the contract start date. Subscription prices do not escalate – the annual price is locked in for the duration of the term. After the conclusion of the term, the Licence is automatically deactivated (unless the Client renews). As long as the subscription fee continues to be paid, the Client will receive updates as they are made available and support as set out in this Contract.

4. Warranties and Limitations

4.1 For Consulting Services

- a. **Standard of Care:** Micromine warrants that the consultancy services will be performed with a standard of professional care, meaning the generally accepted professional practices for the provision of services of that kind. Micromine expressly disclaims, and the Client waives all other warranties, express or implied in relation to those services or any materials developed or supplied as part of those services not set out in this Contract.
- b. **Statutory Warranties:** Where legislation implies into this Contract any condition or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of, or exercise of, or liability under such condition or warranty, the condition or warranty will be deemed to be included in this Contract. However, Micromine's liability for any breach of such condition or warranty will be limited (to the extent allowable by law) to, or to the cost of, supplying the services again, at Micromine's discretion.

4.2 For Software Products

- a. **IP warranty:** Micromine represents and warrants that:
 - i. use of the Software Products and Micromine Materials in accordance with this Contract will not infringe the rights, including the intellectual property rights, of any person; and
 - ii. it has all authorisations it requires to grant the Licence to the Client under this Contract.
- b. **Rectification:** Micromine does not warrant that the Software Products are free from bugs, errors or other program limitations, but agrees to use reasonable endeavours to rectify any such matters that are identified in accordance with the terms of this Contract.
- c. **Satisfaction Guarantee:** If you have entered into a rental or subscription for a new Software Product, you may cancel this at any time within the warranty period if you are not satisfied with the performance of the Software Product, and shall be entitled to a full refund of the Licence fee for the Software Licence (and the remaining subscription fees will not be payable). Any amounts payable for services, other than the Software Licence, that have been delivered by Micromine shall remain payable. The cancellation of this Contract and the refund of the Licence fee shall be your sole remedy for any alleged failure of the Software Products to perform, or any alleged breach of this Contract by Micromine. The warranty periods are:
 - i. Licence period equal to or less than 1 year = 1-month warranty
 - ii. Licence period of greater than 1 year = 3-month warranty

This satisfaction guarantee does not apply if you have previously purchased a Licence for the same Software Product.

- d. **No other warranties:** Micromine expressly disclaims any warranty for the Software Product not expressly set out in this Contract. The Software Product and any related documentation is provided "as is" without warranty of any kind, either express or implied, including, without limitation, to the extent permitted by law, any implied warranties or merchantability, fitness for a particular purpose, or non-infringement. The entire risk arising out of use or performance of the Software Product remains with you.

4.3 Limitations

- a. **Maximum liability for damages:** To the maximum extent permitted by applicable law, the entire liability in respect of this Contract, Micromine's professional acts, errors, or omissions in or related to the provision of services, or any event of default by Micromine shall be limited to damages of an amount equal to \$100,000.
- b. **Limitation:** Micromine does not take any responsibility for any damage suffered as a result of using, modifying, or distributing the Software Products or any information derived from their use.
- c. **Exclusion from limitations:** The limitations of liability under clause 5.3.a. and 5.3.b. do not apply to limit Micromine's liability for loss or damage that arises in relation to:
 - i. personal injury or death of any person,
 - ii. breach of confidentiality,
 - iii. liability arising out of or in connection with any criminal acts, fraud, deliberate default, reckless misconduct or wilful misconduct by Micromine or any of Micromine's personnel,

- iv. liability covered by the insurances that Micromine is required to effect under this Contract (in which case, Micromine's liability is limited to the amount of the insurance cover required); or
 - v. liability covered under Micromine's intellectual property rights indemnity in clause 5.4.
- d. **No consequential loss:** To the fullest extent permitted by law Micromine is not liable for any indirect, special, incidental, punitive, exemplary, or consequential damages of any nature, nor is Micromine liable for any loss of profit, loss of revenue, loss of goodwill, loss of data, loss of production or use, business interruption or loss of opportunity or other commercial or economic loss.

4.4 Client Assistance, Access, and Responsibility for Property

- a. The Client will furnish the information and Client Materials reasonably required by Micromine for proper performance of its services, including those Client Materials expressly set out in the Proposal Details or subsequently requested from the Client by Micromine.
- b. Micromine is not liable for any deficiency in the performance of services if such deficiency results from the Client's failure to provide the Client Materials, or if the Client Materials are inaccurate, incomplete, or unsuitable.
- c. Micromine may use and rely upon Client Materials in performing services; however, no responsibility or liability is assumed by Micromine for their accuracy or completeness. Client Materials will remain the Client's property, and Micromine will maintain the confidentiality of any Client Materials that are specified as confidential by the Client in accordance with clause 5.2.

4.5 Client Indemnity

The Client will indemnify and hold harmless, and on request defend, Micromine and its subcontractors, consultants, agents, officers, directors, and employees from and against any and all claims, liabilities, damages, losses, and expenses (including lawyers' fees and other costs of litigation, arbitration or mediation) arising out of or in any way related to any third party claims regarding any use of or reliance on the services or Micromine Materials provided to the Client, however, such indemnification does not apply to such claims, damages, losses or expenses to the extent caused by the indemnified person's gross negligence or wilful misconduct.

4.6 Micromine Indemnity

Micromine will indemnify and hold harmless, and on request defend, the Client and its subcontractors, consultants, agents, officers, directors, and employees from and against any and all claims, liabilities, damages, losses, and expenses (including lawyers' fees and other costs of litigation, arbitration or mediation) arising out of or in any way related to any third party claims regarding any use of or reliance on the Client Materials provided to Micromine, however, such indemnification does not apply to such claims, damages, losses or expenses caused by the indemnified person's gross negligence or wilful misconduct.

4.7 Unforeseen Occurrences

If any unforeseen conditions or occurrences are encountered that are outside Micromine's control which, in Micromine's reasonable opinion, significantly affect or may affect the recommended scope of work, then Micromine will notify the Client. After such notification, the Client and Micromine will negotiate as to what part of the original scope can be completed, and if appropriate re-scope and agree upon an amended proposal.

4.8 Time bar

Any claim that has not been commenced by the filing of legal proceedings, other than a claim for payment of an invoice rendered prior to that time, may not be brought and shall be barred on and from the earlier of:

- a. 12 months from the date on which the claim first arose;
- b. the end of the Licence (for any claim in relation to a Software Product)
- c. for any claim in relation to services, the day 12 months from the completion of the relevant services (and the services shall be considered complete no later than the earlier of the issue of our final invoice for the relevant services or date of delivery of the finalised report (if any)).

5. Intellectual Property (IP) Rights

5.1 Micromine Background IP

- a. All Micromine Background IP is and shall continue to be owned by Micromine. In particular, the Software Products and Micromine Materials are protected by copyright laws and international treaty provisions. Therefore, you must treat the Software Products and Micromine Materials like any other copyrighted material, and may not copy it, except as expressly permitted under this Contract.
- b. In addition to the Licence to use the Software Products, Micromine grants the Client the non-transferable right to use the Micromine Materials provided by Micromine to the Client under this Contract, for the purpose of using the Software Products in accordance with the Licence and for any other purpose set out in the Proposal Details. Except to the extent that purpose expressly includes provision to other parties, Micromine Materials are for use within the Client's organisation only. Micromine may revoke this right if the Client does not pay all amounts due, or if the Client breaches this Agreement.
- c. Subject to clause 5.2, Micromine may use (and grant any third party any rights in respect of) any Software Products and Micromine Materials as it sees fit.

5.2 Client Background IP and Client Materials

- a. The Client Materials will at all times be the property of the Client, and the Client owns and shall continue to own the Client Background IP.
- b. The Client grants Micromine a licence to use the Client Materials and the Client Background IP for the purposes of:
 - i. Performing Micromine's obligations under this Contract; and
 - ii. Modifying and developing the Software Products and the Micromine Materials, provided that such modifications and developments shall not incorporate any Client data or other confidential Client information.

5.3 Project Intellectual Property

- a. Micromine grants the Client the non-transferable right to use the Micromine Project IP, for the purpose of using the Software Products in accordance with the Licence and for the purposes for which the Micromine Project IP is provided to the Client (including any purpose set out in the Proposal Details).
- b. Micromine shall own all Micromine Project IP, and that Micromine Project IP shall immediately vest in Micromine upon its creation.

- c. Subject to clause 5.2, the Client hereby unconditionally assigns (including as an assignment of future property under section 197 of the Copyright Act 1968 (Cth) and in equity) and agrees to assign and do all things necessary to assign to Micromine all Micromine Project IP which the Client or any of its employees or contractors may have or become entitled to.
- d. If the Software Products (or any modification or enhancement of them) or any Micromine Materials embody any methodologies or processes in respect of which the Client owns Client Background IP, the Client shall retain such rights, but grants Micromine a perpetual, irrevocable, transferrable and sub-licensable licence to use, adapt and reproduce the same as part of the Software Products.
- e. The Client shall own all Client Project IP, and that Client Project IP shall immediately vest in the Client upon its creation.
- f. Micromine hereby unconditionally assigns (including as an assignment of future property under section 197 of the Copyright Act 1968 (Cth) and in equity) to the Client all Intellectual Property Rights in and to the Client Project IP and Client Materials which Micromine may have or become entitled to and agrees do all things necessary to assign those rights to the Client.
- g. To extent that any intellectual property is generated in the course of undertaking the Project that is not otherwise covered by this clause 5.3, then the ownership of that intellectual property shall rest with the person that would be entitled to such ownership under law and that party grants the other party an irrevocable, world-wide royalty free licence to use, copy, modify and exploit such intellectual for the purposes of its business.
- h. All rights of Micromine under this clause 5.3 are subject to Micromine's obligations of confidence under clause 6.1.

5.4 Software Products – Indemnity against Infringement

- a. Micromine will indemnify the Client against any damages (including costs) that may be awarded or reasonably agreed to be paid to any third party in respect of any claim or action that the normal operation, possession or use of the Software Product by the Client infringes the intellectual property rights of the third party (**Intellectual Property Infringement**) (other than by reason of use of information or another product that infringes those third party rights with the Software Product), up to an aggregate maximum of \$10,000,000 under this Contract, provided that the Client:
 - i. gives notice to Micromine of any Intellectual Property Infringement on becoming aware of the same; and
 - ii. gives Micromine the sole conduct of the defence to any claim or action in respect of an Intellectual Property Infringement and does not at any time admit liability or otherwise attempt to settle or compromise the said claim or action except under the express instructions of Micromine; and
 - iii. acts in accordance with the instructions of Micromine and gives to Micromine such assistance as it shall require in respect of the conduct of the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other Court process and the provision of all relevant documents.
- b. In the event of an Intellectual Property Infringement or alleged Intellectual Property Infringement, Micromine shall be entitled at its own expense to do any of the following:
 - i. procure the right for the Client to continue using the Software Product; or

- ii. make such alterations, modifications or adjustments to the Software Product that they become non-infringing without incurring a material diminution in performance or function; or
 - iii. replace the Software Product with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function; or
 - iv. direct the Client to cease using the Software Product, and refund to the Client any payments made in respect of the Software Product for any period following that direction.
- c. Micromine shall have no liability to the Client (and the above indemnity shall not apply) in respect of an Intellectual Property Infringement to the extent it results from any breach of the Client's obligations under this Contract.

5.5 Use of Software Products

- a. The Client agrees that it will not use the Software Product to develop derived works that offer similar functionality to the Software Product for use by unlicensed parties nor will it expose any of the features of the Software Product for use by an unlicensed third party.
- b. The Client may develop derived works as long as usage of those derived works is for internal use only, and any derived work, which is software, also requires the usage of a Licence of the Software Product. Any such derived work being software shall be subject to the terms of this Contract, and the Client must cease using that derived work upon ceasing to be entitled to use the Software Product.
- c. From the commencement of the Licence until twelve (12) months after the date this Contract and the Licence is terminated or ends, the Client shall not create software that might directly compete with any Software Products you have licensed, except if said software is for internal use within the Client's organisation only.
- d. You may not modify the Software Products in any manner.
- e. You shall not, nor allow others to copy, in whole or in part, emulate, sub-license, sell, transfer, exploit, alter, modify or adapt the Software Products nor decompile, decrypt, disassemble or reverse engineer the Software Products or any part of them nor attempt to do such thing.
- f. You may not provide or make available copies of, rent, lease or sub-license or disseminate in any other manner the Software Product or any associated Micromine Materials (including training materials and videos and user manuals) to any third party (other than your IT service providers for the sole purpose of installing or operating the Software Product for the purpose of your business). You may not use (or permit any other person to use) the Software Product for the benefit of, or the purpose of providing services to, any third party (including without limitation, processing data for or on behalf of a third party).
- g. You may not remove any proprietary notices or labels on the Software Products.

5.6 Further Steps

Each party must, if required by the other, do all further things and execute all further documents necessary to assign to that other party any intellectual property rights that this Contract provides are to vest in or be transferred to that other party.

6. Confidentiality

6.1 Micromine Obligations

- a. Micromine will not:
 - i. use the Client Materials except as required for the performance of this Contract, or for the development and modification of the Software Products (in a manner that does not result in the disclosure of the Client Materials)
 - ii. reproduce the Client Materials in whole or in part in any form except as required for the performance of this Contract; or
 - iii. disclose the Client Materials (and in particular, any confidential Client information or data) to any third party or persons not authorised by the Client to receive it, except with the prior written consent of the Client.
- b. The obligations of Micromine under this clause apply until Micromine no longer has a copy of the Client Materials.

6.2 Client Obligations

- a. The Client will not:
 - i. use the Micromine Materials except as required for the performance of this Contract
 - ii. reproduce the Micromine Materials in whole or in part in any form except as required for the performance of this Contract; or
 - iii. disclose the Micromine Materials to any third party or persons not authorised by Micromine to receive it, except with the prior written consent of Micromine.
- b. The obligations of the Client under this clause apply until the Client no longer has a copy of the Micromine Materials.

7. Payment

7.1 Invoicing

- a. Micromine shall issue invoices for each instalment of Licence fees, with a payment date for the instalment in accordance with the terms of this Contract.
- b. Except as otherwise set out in the Proposal Details, Micromine will submit invoices to the Client monthly for the preceding month's consultancy services, and a final bill upon completion of the services. Invoicing will take the form of either "fixed price" or "variable – time and materials" or a combination, as specified in the Proposal Details (and if not specified, on a time and materials basis).
- c. All invoices shall be issued with a payment date of 30 days after the end of the month in which they are issued, and are payable by that payment date, unless other invoicing procedures are set out in the Proposal Details.

7.2 Payment disputes

- a. If the Client notifies Micromine in writing within 5 business days of the invoice date that there is a dispute with the content of the invoice, the Client and Micromine will in good faith attempt to promptly resolve any disputed items before the due date for the invoice.

- b. If any disputed amounts are paid and later found or agreed not to be payable, Micromine will either refund the overpaid amounts, or provide a credit to be applied to future invoices.

7.3 Currency

All amounts are in Australian Dollars (unless expressly stated otherwise) and exclude GST or other taxes.

7.4 Shortfall

In the event of a shortfall in payment of Licence fees for any period (including by reason of any withholding or deduction), Micromine may notify you of the shortfall, and if the shortfall is not made up, Micromine may adjust the Licence term pro-rata in accordance with the proportion of the fee received by Micromine. Micromine remains entitled to recover the balance of the Licence fee due, even if the Licence term has been adjusted and the Client is no longer permitted to use the Software Product.

7.5 Withholding and Tax

The Client shall bear and be responsible for all taxes, duties and deductions (including any GST, sales, value added, use, excise, gross receipts, service, business and education tax, bank or transfer fees) levied on, withheld, deducted from or assessed against Micromine on any payments made by the Client to Micromine (including reimbursed expenses) under this Contract by any government or governmental authority or the Client's financial institution. For clarification, if taxes and duties or fees are required to be withheld or deducted from any payment, remittance or transfer to Micromine, the Client shall gross-up or increase such payment, remittance or transfer so that Micromine receives the same amount that it would have received if no taxes and duties or fees were applicable. Notwithstanding the foregoing, the Client shall not bear corporate income taxes assessed against Micromine in any jurisdiction.

8. Breach and Termination

- a. If at any time a Party becomes Insolvent, then subject to the restrictions in the Corporations Act 2001 (Cth) the other Party may terminate the Contract with immediate effect by giving written notice.
- b. A Party may terminate the Contract in whole or in part, by 14 day's notice to the other Party, if:
 - i. the other Party is in breach of any provision of this Agreement and the breach is not capable of remedy;
 - ii. the other Party is in breach of any provision of the Contract which is capable of remedy and fails to remedy that breach at its own expense and to the reasonable satisfaction of the Party within 14 days after receipt of a notice from the Party specifying the breach; and
 - iii. the Party is expressly entitled to exercise a right of termination under any other provision of these terms and conditions.
- c. Without prejudice to any other rights, Micromine may terminate or suspend this Contract, the Licence and any rights you have under this Contract if you or any of your Users fail to comply with the terms and conditions of this Contract (including without limitation, terms relating to payment) or the EULA in a material respect. In such event, you must destroy all copies of the Software Product and all of its component parts. Micromine shall be entitled to damages for your breach and loss of your obligations under this Contract, including without limitation full payment of all monies due for the full term of any subscription.
- d. The Client may terminate the Contract in its entirety by providing to Micromine thirty (30) days written notice of termination. For the avoidance of doubt, the Client shall not be entitled to a refund of any monies paid in advance, and if on a subscription on termination must pay 100% of all monies

that would have been due until the end of the full subscription period. Payment under this clause shall not apply if notice of termination occurs within the warranty period provided in section c.

- e. Either party may terminate this Contract as it relates to the provision of services (but not any Software Products or Licences) by 7 days' written notice to the other party.
- f. In the event of termination for any reason, the Client must pay Micromine for services performed up to the termination date, and reasonable termination expenses, including demobilisation costs.
- g. On termination, both parties will be released from their obligations under Contract (other than confidentiality and other obligations expressed or intended to operate after termination or the end of the Licence). The Client shall destroy all copies of the Software Product, and all of its component parts and all copies of Micromine Materials. Micromine shall destroy all copies of Client Materials (other than one copy, for the exclusive purposes of its corporate records and insurances).
- h. The Client will pay Micromine for all time spent and all costs, expenses, and fees incurred (including lawyers' fees on a solicitor-client basis) as a result of or in connection with any breach by the Client, or suspension or termination of services in consequence of such a breach.

9. Agreed Service Levels

9.1 Support Period

- a. Micromine agrees to provide the support services set out in this section during the life of your, rental, subscription Licence, or if you purchased a Licence (for legacy customers) while you have a maintenance agreement in force.
- b. Support shall only be provided while relevant fees for the use of the Micromine Software are paid in full, in accordance with this Contract.

9.2 Scope of Support Services

- a. Software support is included for all Users during the rental or subscription term, which includes:
 - i. Telephone, email, and video conference support for technical issues
 - ii. Ability to log bug reports which are typically patched within 12-48 hours
 - iii. Ability to log feature requests, which may be included in future versions of the software
 - iv. Any script updates required by a breaking change associated with a new release

Note that software support does not include:

- v. Providing instruction on use of the software that is covered in a training course
 - vi. Performing work on behalf of the Client
 - vii. Running schedules or doing schedule comparisons
 - viii. Project setup changes requested by the Client
 - ix. Script changes requested by the Client
 - x. Site visits requested by the Client
- b. Support services are intended to provide the Users with assistance in the use of the Software Product and to provide an avenue to provide input from the User base for product development. They are not intended as a replacement for software training or to provide mining consulting services.

Micromine may require untrained Users to undergo software training as a condition of providing support to any of your Users.

- c. Support – Users may contact the Micromine help desk service through either
 - i. Email – **support@micromine.com**
 - ii. Via online help system
 - iii. Phone
- d. For **Class A** issues, Micromine will respond to support requests through defined channels in the following manner, with response times listed:
 - i. Initial response (**Level 1 Support**) **within 24 hours** (excluding weekends and public holidays). Level 1 Support is intended to address the majority of User issues
 - ii. If **Level 1 Support** cannot resolve the issue, the issue will be escalated to **Level 2 Support** (Product Specialist) with a response to the User **within 48 hours** (excluding weekends and public holidays)
 - iii. If **Level 2 Support** cannot resolve the issue it will be escalated to **Level 3 Support** (Developer) for potential investigation within the application code and a response **within 72 hours** (excluding weekends and public holidays). The result may be an instruction, work-around or software patch, at Micromine’s discretion.

Note:

- iv. Responses from all levels may be via email or phone
 - v. Response times listed are within the constraints of Business Hours (AWST) and Western Australian public holidays.
 - vi. Times are cumulative, where escalation has been required.
- e. **Class B issues** will be dealt with as follows:
 - i. **Level 1 Support** within **48 hours**
 - ii. Escalation as deemed necessary by Micromine

Note:

- iii. Responses from all levels may be via email or phone
 - iv. Response times listed are within the constraints of Business Hours (AWST) and Western Australian public holidays.
- f. **Class C issues** will be documented and acted on as part of the normal development and enhancement cycle of the software.
 - g. **Software installation support:** Support is also provided to the Client’s IT/Technology department where required during software installation.
 - h. All times are listed are maximums and average response time is anticipated to be significantly better.

9.3 Support Service limitations

- a. **User limitations:** Support services are provided to end Users only where the User requesting support has undergone training or mentoring sessions from Micromine (this is normally provided as part of implementation services), excepting for purposes associated with software installation.

- b. **Support subject limitations:** Advice and mentoring under this Contract is limited to use and functionality of the Software Products and does not include consulting regarding the use of the Software Products in terms of the end goals and models under consideration. For example, advice or assistance concerning the following would constitute a mining consulting function and are not included in the included support:
- i. equipment selection
 - ii. haul road design
 - iii. mining, haul road or equipment parameters
 - iv. scheduling parameters or logic
 - v. mine design
 - vi. any other services not associated with the direct functionality of the software

These services are available from Micromine, under separate commercial agreement.

Other items excluded from support include:

- vii. Operating system issues
 - viii. Hardware issues
 - ix. Non Micromine Alastri Software issues
 - x. Custom scripting
 - xi. Requests for additional documentation
- c. Requests for enhancements will be accepted however acting on the requests is entirely at Micromine's discretion. If Micromine makes any enhancement to the software, it may provide that enhancement to any other Clients and Users, in its absolute discretion, and without reward to the Client.
- d. Where support has been requested for a perceived "bug" it may not be able to remedy the issue if it is not repeatable with reasonable investigation.

9.4 Client obligations

- a. In addition to undertaking Micromine Alastri software training or mentoring, Users must have a competent level of computer knowledge.
- b. Users must have local administrator access on their computer, and if not, to only contact support to diagnose a problem with a person who does have local administrator access on the computer.
- c. Users must consult the software help system for basic assistance and have undertaken basic troubleshooting before contacting the support services.
- d. As part of the maintenance services, the Software Products are updated periodically. Users are expected to have the most recent version of the general release of the Software Product in use, available for download and installation from the Micromine website, and Micromine may require installation of the latest release before providing further support.
- e. Computer specifications must meet Micromine's recommended standards for the most recent version of the general release of the Software Product, including correct operating system version and .NET versions.

- f. In order to diagnose issues, it is often necessary to inspect the Users’ reference files – these will need to be sent to Micromine support on request. Where email does not provide sufficient capacity, the User will be requested to use a dedicated file transfer system.
- g. Where the User has encountered an issue that has resulted in an abnormal termination of the application, dump files and screen captures will need to be sent on request.
- h. Support will be provided in English.

9.5 Performance measurement and remedy

- a. Support service performance, in terms of response time and outcome, are measured as part of the Micromine support system. Reports of the metrics for the Client’s support request will be available on request on a 3-monthly basis.
- b. Support response times are monitored by Micromine, and where support response is found to be inadequate under the terms of this section 9, Micromine will undertake remedial action. This may include, and not limited to (at Micromine’s discretion):
 - i. Review and rectification of processes
 - ii. Review and rectification of staffing levels
 - iii. Review and rectification of staffing capability

10. Micromine Software System Requirements

The system requirements to run Micromine Alastri software is dependent on the size of the data. Those requirements as at May 2020 are set out below.

- a. For large multi-pit mines with raw LIDAR surfaces and block models with 80M blocks the requirements will be at the extreme end.
- b. The minimum requirements will only support small mines with a small block model and surfaces with low triangle counts.
- c. Please note that as our software develops over time these requirements may change and hardware upgrades may become necessary.

	Minimum	Recommended	Extreme
Processor	Intel i5	Intel i7	Intel i9
System RAM	8 GB	64 GB	128 GB
Video RAM	2 GB	8 GB	12 GB
Monitor Resolution	1920 x 1080	Dual 1920 x 1080	Triple 1920 x 1080
Video Connection	HDMI, DisplayPort, DVI, VGA - <i>USB not supported.</i>		
Video Driver	OpenGL 4.3+ with a driver no more than 6 months old		
Hard Drive	Solid State Drive with 50 GB Free		
Power Connection	AC Power - <i>Battery power not supported (plug in the laptop).</i>		
Network Connection	Consistent, reliable connection to the Internet		
Operating System	Windows 10 x64		

11. Severability and Survival

If any provision of this Contract violates a law or is held to be unenforceable or void it will be deemed severed and not part of this Contract, and all remaining provisions of this Contract will continue in force. However, Micromine and the Client will in good faith attempt to replace any invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the voided provision.

12. Force Majeure

Neither party will be in default under this Agreement if performance of an obligation (other than a payment obligation) (whether in relation to a Licence, a Software Product, services or support) is restricted, delayed, suspended, prevented or prohibited by reason of an occurrence or occurrences beyond the reasonable control of the party otherwise required to perform to the extent which by the exercise of reasonable diligence by such party could not have been prevented or avoided. Both parties will exercise reasonable diligence to resume performance of the relevant obligation.

13. Governing Law

This Contract is governed by and is to be construed in accordance with laws of the State of Western Australia, Australia. Each party irrevocably submits to the jurisdiction of the courts of that place.

14. Construction

- a. This Contract and all communications in respect of it will be in the English language.
- b. words importing:
 - i. the singular include the plural and vice versa; and
 - ii. any gender includes the other genders;
- c. if a word or phrase is defined cognate words and phrases have corresponding definitions;
- d. a reference to
 - i. a person includes a firm, unincorporated association, corporation and a government a statutory body or authority;
 - ii. a person includes its legal personal representatives, successors and assigns;
 - iii. a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - iv. a right includes a benefit, remedy, discretion, authority or power;
 - v. an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
 - vi. provisions or terms of this Agreement or another document, agreement understanding or arrangement include a reference to both express and implied provisions and terms;

- vii. time is to local time in Perth;
- viii. "\$" or "dollars" is a reference to the lawful currency of Australia;
- ix. this or any other document includes the document as varied or replaced and notwithstanding any change in the identity of the parties;
- x. writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes facsimile transmission; and
- xi. a reference to this Agreement includes all schedules and annexures referred to in it.

15. Definitions

In this Contract (including in the Proposal), the following words bear the following meanings (and plural, singular and derivative terms bear corresponding meanings), unless the context otherwise requires:

- a. **Agreement** means this Software Licence Agreement.
- b. **Class A issue** means a critical problem that prevents Users from operating the Software Product.
- c. **Class B issue** means a problem that causes annoyance to Users, but that is not preventing functioning of the Software Product, including where there is a work-around available to continue using the Software Product.
- d. **Class C issue** means an issue or enhancement request which does not impact on the usability of the Software Product, such as formatting, typographical changes.
- e. **Client** means the party to whom Micromine has addressed the Proposal, and which has accepted the Proposal to form the Contract, and where a Purchase Order is issued under this Contract by a Related Body Corporate of the Client, includes that Related Body Corporate.
- f. **Client Background IP** means all title, copyright and other intellectual property rights in and to any Client Materials provided by the Client to Micromine, and any other intellectual property rights belonging to the Client at the date of this Contract;
- g. **Client Materials** means any information or data relating to the business of the Client or its related corporations, including as to its operations, facilities, customers, employees, assets, products, sales and transactions, in whatever form the information exists, and includes any:
 - i. Client data accessed by any person through the provision of the Software Products;
 - ii. documentation or records related to Client data or information;
 - iii. information and reports resulting from the use or manipulation of Client data or information;
 - iv. specific model configuration developed for the Client; and
 - v. copies of any of the above.
- h. **Client Project IP** means all title, copyright and other intellectual property rights in and to any new materials or reports generated from Client Materials in the course of performance of this Contract, and for the avoidance of doubt, including by use of the Software Products.
- i. **Contract** means this contract, incorporating
 - i. the Proposal Details,
 - ii. these terms and conditions,
 - iii. the EULA;

iv. and a Purchase Order

and if there is any inconsistency, conflict, ambiguity or discrepancy between the documents, the order of precedence above shall apply.

- j. **Contract Term** means the Initial Term and any Extended Term.
- k. **EULA** means Micromine Alastri's End User Licence Agreement, as amended by Micromine from time to time, the current version of which is revision 5.0 dated 29 April 2024.
- l. **Extended Term** means any extension or extensions of the Term provided for in the Proposal Details, or otherwise agreed by the Client and Micromine.
- m. **Initial Term** means the initial term of this Contract as provided for in the Proposal Details.
- n. **Insolvency and Insolvent** has the meaning given to it in the Corporations Act 2001 (Cth).
- o. **Intellectual Property Infringement** has the meaning given in clause 5.4.
- p. **Level 1 Support** means support provided by the initial point of contact at Micromine, and undertaken by support staff.
- q. **Level 2 Support** means support by provided by a Product Specialist.
- r. **Level 3 Support** means support by provided by a Software Developer.
- s. **Liability** means liability of any kind, whether in contract (including breach of warranty), in tort (including negligence), in strict liability, under statute, for indemnity and otherwise, for any and all injuries, claims, losses, expenses or damages arising out of or in any way related to Micromine's services and the services of Micromine's subcontractors, consultants, agents, officers, directors and employees from any cause or causes. The term "**liable**" has a corresponding meaning.
- t. **Licence** means the licence to use the Software Products granted under clause 3.1, on the terms of this Contract.
- u. **Micromine** means Micromine Australia Pty Ltd (ACN: 630 329 118).
- v. **Micromine Background IP** means all title, copyright and other intellectual property rights in and to the Software Products (including but not limited to any images, photographs, text, and "applets" incorporated into the Software Products), the accompanying Micromine Materials and any copies of them, and any other intellectual property rights Micromine has in anything as at the date of this Contract.
- w. **Micromine Materials** means any reports, calculations, studies, recommendations, estimates, analyses, information, or documents provided by Micromine to the Client.
- x. **Micromine Project IP** means all title, copyright and other intellectual property rights in and to any of the following developed or created pursuant to, or in the course of performing this Contract:
 - i. any software (including but not limited to any addition to or modification of the Software Products and any images, photographs, text, and "applets" incorporated into the Software Products), coding or algorithms or methodologies, but excluding any physical mining, extraction or mineral processing methodologies, which shall be Client Background IP or Client Project IP; and
 - ii. any accompanying Micromine Materials and modifications of them.
- y. **Prohibited Jurisdiction** means Russia, the Democratic People's Republic of Korea, Iran, Syria, Libya, or other sanctioned jurisdiction(s) as nominated by the Micromine from time to time.
- z. **Proposal** means the Proposal Details, these terms and conditions and the EULA.

- aa. **Proposal Details** means the commercial details of the proposal set out in the proposal letter.
- bb. **Purchase Order** means a document entitled 'Purchase Order' and issued by the Client or its Related Body Corporate to the Contractor electronically for the supply of goods or services under this Contract and includes any documents annexed to or referenced within it, including any scopes of work and/or specifications.
- cc. **Related Body Corporate** means any related body corporate as defined in the Corporations Act.
- dd. **Seat** means the right for a single User to use a Software Program or bundle of Software Programs, as detailed in clauses 3.2 to 3.3 of this Contract.
- ee. **Software Products** means the software products provided by Micromine from time to time and includes the software products detailed in section 2.
- ff. **User** means an individual person that the Client authorises to use the Software Products and includes any person that uses the Software Products provided to the Client from any of the devices on which the Client installs the Software Product, or with any of the Client's User details, whether or not actually authorised by the Client.
- gg. **You** has the same meaning as **Client**.