

**Liquid Digital Solutions**  
**ABN 50 123 873 290**

# **Terms and Conditions**

**TERMS AND CONDITIONS**

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## Terms and conditions

These Terms and Conditions govern the legal relationship between you ("You or "Your") and Liquid Digital Solutions ABN 50 123 873 290 , "Us" or "Our").

### 1. WHOLE AGREEMENT

- (a) These Terms and Conditions represent the entire agreement between You and Liquid Digital Solutions and there are no other representations between You and Liquid Digital Solutions. These Terms and Conditions supersede all previous agreements between You and Us.

### 2. ORDERS

Subject to clauses 4, 5 and 6, Liquid Digital Solutions will supply the Goods to You upon the receipt of an Order from You whether via our Website or otherwise.

### 3. PAYMENT

- (a) You must pay Us the Outstanding Amounts in respect of each Order upon the payment terms described in any Order or any Invoice which relates to that Order.
- (b) If any Order or Invoice does not contain any description of Our payment terms, then You must pay all Outstanding Amounts in respect of that Invoice within seven (7) days of the supply of the Goods which that Invoice relates to.
- (c) You authorise Us, at Our discretion, to appropriate any money received from You against any Outstanding Amounts which are due and payable by You to Us.

### 4. RETENTION OF TITLE

In respect of each Order:

- (a) Property in the Goods will pass to You only when Liquid Digital Solutions has received payment in full of all Outstanding Amounts from You.
- (b) You agree that until Liquid Digital Solutions receives payment in full of the Outstanding Amounts from You:
  - (i) Liquid Digital Solutions and You take possession of the Goods as fiduciary agent and bailee of Liquid Digital Solutions;
  - (ii) You may not resell the Goods onto any third party;

- (iii) You may not mix the Goods with any other goods; and
  - (iv) Any Goods which are delivered to You must be separately identified as the property Liquid Digital Solutions.
- (c) If any Event of Default occurs, You immediately:
- (i) Grant Liquid Digital Solutions an irrevocable licence, and will assist Liquid Digital Solutions, to retake possession of any Goods which remain the property of Liquid Digital Solutions
  - (ii) Will not deal with the Goods in any way without the prior written consent of Liquid Digital Solutions
- (d) This clause survives the termination of these Terms and Conditions.

## **5. DELIVERY AND RISK**

- (a) You assume all risk in respect of the Goods and their delivery from the time Liquid Digital Solutions dispatches them from Our premises or from our suppliers' premises.
- (b) Any claims by You that the Goods supplied by Liquid Digital Solutions do not fulfil the Order, must be notified in writing to Liquid Digital Solutions within seven (7) days of the supply of those Goods.
- (c) Liquid Digital Solutions will not be bound to accept any return of the Goods by You, unless the return is authorised in writing by Liquid Digital Solutions and, only if those Goods are returned to Us at Your expense.

## **6. RIGHT TO SUPPLY**

- (a) Liquid Digital Solutions reserves the right to accept or decline in whole or in part at any time, any Order made by You for the supply of Goods.
- (b) Notwithstanding that Liquid Digital Solutions has accepted an Order in whole or in part, Liquid Digital Solutions may, at any

time before the fulfilment of that Order, refuse to supply that Order or any part of that Order to You.

- (c) Each Order is subject to Liquid Digital Solutions having the Goods available to fulfil that Order.
- (d) You agree that time is not of the essence for delivery, however, time for payment of all Outstanding Amounts is of the essence.

## **7. LIMITATION OF LIABILITY**

- (a) All manufacturers' warranties are passed onto Liquid Digital Solutions.
- (b) Other than such manufacturers' warranties, Liquid Digital Solutions gives You the following limited Warranties & Guarantees:
  - (i) A Thirty Day (from date of purchase) Money Back Guarantee (MBG) for the aGent webcam if you are not completely 100% satisfied with the Package, with the following conditions:
    - (A) You must return the aGent webcam to Us within 30 days of You purchasing the package. The webcam must be complete in as new condition with all packaging and accessories.
    - (B) You must send the Goods to Us in good and working order, at your own expense for all freight and insurance, plus Proof of Purchase (PoP).
    - (C) If You comply with clauses 7(b)(i)(A) to 7(b)(i)(B), Liquid Digital Solutions will refund the Recommended Retail Price for the aGent webcam, less a 15% Administration Fee, Postage, Handling and Insurance within fourteen (14) days after the 30 Day Money Back Guarantee Period has expired.

- (iii) A twelve (12) month return to base repair warranty for defective Goods, with the following conditions:
  - (A) You must return the defective Goods to Us within twelve (12) months of You purchasing them;
  - (B) You must contact Liquid Digital Solutions via phone or email [sales@liquiddigital.com.au](mailto:sales@liquiddigital.com.au) and supply a Proof of Purchase when sending back the Goods.
  - (C) You must send the Goods to Us, at your own expense for all freight and insurance, quoting the return authorisation code; and
  - (D) If You comply with clauses 7(b)(iii)(A) to 7(b)(iii)(C) and the Goods have not, in Our reasonable opinion been damaged by You, Liquid Digital Solutions will repair the Goods and return them to You, within thirty (30) days of Our receiving the Goods with a valid return authorisation code.
- (c) Other than the warranties expressly contained in clause 7(b), Liquid Digital Solutions makes no other warranty in relation to the supply of the Goods and You acknowledge that You have not relied on any other representation or warranty made by or on behalf of Liquid Digital Solutions in relation to the Goods or their supply.
- (d) Any other warranties or conditions implied by law, either by statutory instrument or otherwise, are expressly excluded to the extent that such warranties and conditions in respect of the Goods may be lawfully excluded.
- (e) To the extent permitted by law, if Liquid Digital Solutions is or becomes liable to You in any manner whatsoever for breach of warranty or in relation to the supply of any defective Goods, then Liquid Digital Solutions liability is limited solely to the price paid by You for such Goods, or the cost of their repair or re-supply, whichever Liquid Digital Solutions elects.
- (f) You acknowledge that You have undertaken Your own inspections and made Your own independent enquiries in reaching Your decision to purchase the Goods.
- (g) You acknowledge that no warranties and/or representations have been made in relation to the capacity, use, performance, adequacy or suitability

of the Goods, other than any representations made in writing by the manufacturer and that You has relied upon Your own enquiries in making the decision to purchase the Goods.

(h) You acknowledge that Liquid Digital Solutions has made no warranties that the aGent webcam and associated products are without any risk.

(i) You will indemnify and hold Liquid Digital Solutions harmless from and against any and all claims which may be made by You against Liquid Digital Solutions, which arise directly or indirectly from Your acts, omissions or negligence in utilising the aGent webcam and associated products in any manner.

## 8. DEFAULT

(a) If You breach any of these Terms and Conditions, You will indemnify and continue to indemnify Liquid Digital Solutions for all Costs associated with remedying Your breach.

(b) As a result of any breach by You of these Terms and Conditions, interest will accrue on all unpaid amounts and costs at the rate of 2% above the rate set in section 2 of the *Penalty Interest Rates Act 1983 (Vic)* per annum, compounded daily from the date of the relevant Invoice.

## 9. GST

(a) All prices for the Goods are inclusive of GST.

(b) If Liquid Digital Solutions becomes liable to pay any GST in respect of any supply made to You pursuant to or in connection with these Terms and Conditions, Liquid Digital Solutions

will, upon presenting You with a valid Tax Invoice, charge GST at the prevailing rate on the value of any taxable supplies made under these Terms and Conditions.

## 10. MISCELLANEOUS

(a) These Terms and Conditions may not be amended except in writing signed by You and Us.

- (b) These Terms and Conditions are governed by, and must be construed in accordance with, the laws of the State of Victoria and the parties irrevocably submit to the exclusive jurisdiction of the courts of the State of Victoria;
- (c) Waiver of a breach of, or default under, these Terms and Conditions:
- (i) is not waived by any failure to exercise or delay in exercising or partial exercise of any right, power, authority, discretion or remedy under these terms and conditions; and
  - (ii) must be in writing and signed by the party granting the waiver.
- (d) Each party must do all things and execute all further agreements necessary to give full effect to these terms and conditions.

## 11. DEFINITIONS

The following words have these meanings in these terms and conditions unless the contrary intention appears:

- Costs** includes all costs incurred by Liquid Digital Solutions in supplying and delivering the Goods to You including without limitation all solicitors' fees (on a solicitor and own client basis) commercial agents' commission, freight, insurance, loss of profit and interest and any applicable State or Federal taxes. means that any of the following has occurred:
- Event of Default**
- (a) a provisional liquidator is appointed to You or a petition or an application is presented or an order is made or an effective resolution is passed or a meeting is summoned or convened for the purpose of considering a resolution for Your winding up or Your dissolution without winding up or You are placed into liquidation;
  - (b) a receiver or a receiver and manager or an administrator or controller is appointed over You or any of Your assets;
  - (c) an encumbrancer takes possession of any of Your property or any part of such undertaking or property;
  - (d) You cease or threaten to cease to carry on Your business or You are unable to pay Your respective debts or permit execution to be levied against any of Your assets for an amount in excess of \$2,000.00 and such execution is not stayed or satisfied within fourteen (14) days;
  - (e) You enter into any arrangement, reconstruction or composition with any of Your creditors or propose to do so;
  - (f) You charge, mortgage or otherwise encumber all or any of Your assets or purport to charge, mortgage or otherwise encumber those assets;
  - (g) in the sole opinion of Liquid Digital Solutions, You are carrying on a business at a loss and further prosecution of such business will endanger Your ability to repay any monies owing to Us;
  - (h) pursuant to the provisions of the Corporations Law, You are placed under official management or a meeting is summoned or other steps taken for the purpose of placing You under

official management or appointing an official manager pursuant to the Corporations Law or if any person is appointed or proposed to be appointed under the Corporations Law to investigate Your affairs; (i) without limiting the operation of the events referred to in paragraphs (a) to (h) above, You propose or enter into some other form of insolvency or administration whether voluntary formal or informal; (j) an event or series of events, whether related or not, or whether as a result of Your fault or not, results in any material adverse change in Your financial condition which has or is in the opinion of Liquid Digital Solutions likely to have a material and adverse affect on Your ability to repay any money that You owe to Liquid Digital Solutions; (k) You default in the performance of any of Your obligations under these Terms and Conditions; or

(l) if You are an individual, any act of bankruptcy by You.

**Goods** means any goods supplied by Liquid Digital Solutions to You, as described in the relevant Order or Invoice.

**Invoice** means any invoice for the Goods supplied to You by Liquid Digital Solutions.

**Order** means any order for Goods placed by You with Us.

**Outstanding Amounts** means all amounts due and payable by You to Us including the Purchase Price for any Goods supplied, and all Costs which You are liable to pay to Us. **Purchase Price** means the price for Goods supplied by Us to You as stated on the Invoice but does not include the Costs and the Taxes.

## 12. INTERPRETATION

In these Terms and Conditions, unless the contrary intention appears:

- (a) words importing the singular import the plural and vice versa;
- (b) a reference to any gender will be deemed to be a reference to all genders;
- (c) any headings have been provided for ease of reference only and are not to be used in the interpretation of these Terms and Conditions;
- (d) if any provision in these Terms and Conditions are held to be invalid or unenforceable in whole or in part, such provision will be severed and the validity of any other provision in these Terms and Conditions or of the remainder of the provision being severed will not be affected;
- (e) all powers, rights, remedies and authorities conferred upon the parties may be exercised on behalf of and in the name of them from time to time by any of their respective authorised solicitors or attorneys from time to time, either authorised to act for them generally or in a particular case;
- (f) a provision of these terms and conditions may not be interpreted against a party just because that party prepared the provision;

- (g) a reference to a statute includes an amendment or re-enactment to that legislation and includes subordinate legislation in force under it;
- (h) a reference to these terms and conditions includes an amendment or supplement to, or replacement or novation of these Terms and Conditions;
- (i) a reference to a party to these Terms and Conditions, includes that party's successor, assigns, employees and sub-contractors; and
- (j) a reference to a person or words denoting a person includes any company, statutory corporation, partnership, joint venture, association, board, government or semi-government agency or authority and that person's successors and legal personal representatives.