



AGRI AUTOMATION

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Terms and Conditions

These Terms govern the provision of Products and Services by Agri Automation Australia Pty Ltd ACN 663 493 936 (**Supplier, we, our or us**) to the Customer (**you or your**).

1 Definitions

- 1.1 **Agreement** means these Terms together with the terms set out in the Key Terms.
- 1.2 **Business Day** means a day on which registered banks are open for general banking business in Adelaide, South Australia, excluding Saturdays, Sundays and public holidays.
- 1.3 **Commencement Date**, unless otherwise specified, means the date on which the Products have been installed onto the Equipment.
- 1.4 **Confidential Information** means any information that is not public knowledge and that is obtained from the other party in the course of, or in connection with, the provision and use of the Products and Services. Our Confidential Information includes Intellectual Property owned by us (and/or the Manufacturer and/or our licensors).
- 1.5 **Early Termination Fee** has the meaning given to it in clause 11.4(d) of this Agreement.
- 1.6 **Fees** means the Upfront Fee and the Monthly Fees set out in in the Key Terms as amended from time to time pursuant to this Agreement together with any other fees set out in this Agreement.
- 1.7 **including** and similar words do not imply any limit.
- 1.8 **Intellectual Property Rights** means all present and future intellectual property rights, including, but not limited to, copyright and all rights existing anywhere in the world conferred under statute, common law or equity relating to inventions (including patents), registered and unregistered trademarks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity, and includes the right to apply for the registration of such rights.
- 1.9 **Intellectual Property** has a consistent meaning, and includes any enhancement, modification or derivative work of the Intellectual Property.
- 1.10 **Key Terms** means the key terms annexed hereto.
- 1.11 **Manufacturer** means the manufacturer of the Products.
- 1.12 **Minimum Term** means the minimum length of time you have committed to, for subscribing for the Products from us under this Agreement (if any) as set out in the Key Terms.
- 1.13 **Monthly Fee** means the portion of the Fee to be paid on a monthly basis, as set out in the Key Terms.
- 1.14

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- 1.15 **Moral Rights** means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, as defined in the *Copyright Act 1968* (Cth).
- 1.16 **Operating Instructions** means any manual, instructions or directions supplied by us in relation to storing and/or operating the Products.
- 1.17 **PPSA** means the *Personal Properties Securities Act 2009* (Cth).
- 1.18 **Products** shall refer to all goods of any kind that we provide to you, including those set out in the Key Terms.
- 1.19 **Representatives** includes officers, employees, contractors, agents and representatives, but does not include the counterparty to this Agreement.
- 1.20 **Security Interest** means:
 - 1.20.1 any security for the payment of money or performance of obligations including a mortgage, charge, lien, pledge, trust or power, or title retention arrangement;
 - 1.20.2 a security interest as defined in the PPSA; or
 - 1.20.3 any document to grant or create anything which gives a creditor priority to any other creditor with respect to any asset or an interest in any asset.
- 1.21 **Services** shall refer to all services of any kind that we provide to you including those set out in the Key Terms.
- 1.22 **Term** has the meaning set out in clause 5.1.
- 1.23 **Terms** means these terms and conditions.
- 1.24 **Upfront Fee** means the portion of the Fee to be paid on the Commencement Date, as set out in the Key Terms.

2 **Supplier obligations**

- 2.1 We agree to provide you with the Products and Services in accordance with this Agreement.
- 2.2 Our provision of the Products and Services to you is non-exclusive. Nothing in this Agreement prevents us from providing the Products and Services to any other person.
- 2.3 Subject to clause 4, we will use reasonable efforts to ensure the Products are available during normal business hours in Australia. However, it is possible that on occasion the Products may be unavailable to permit maintenance or other development activity to take place, or in the event of Force Majeure. We will use reasonable efforts to notify you of any advance details of any unavailability.

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- 2.4 Once installed, the Products interoperate with your Equipment. We are not responsible in any way for your Equipment and its use. We do not make any warranty or representation on the functionality of your Equipment, beyond the warranties in clause 12. Without limiting the previous sentence, if your Equipment ceases to operate as originally advised to us, the Products may no longer function as intended, in which case you are not entitled to any refund, discount or other compensation.

3 Delivery and installation

- 3.1 The set-up of the Products involves physical installation into your Equipment.
- 3.2 We will deliver the Products to our Nominated Installer who will install the Products on your Equipment, at a time to be agreed between you and the Nominated Installer.
- 3.3 You will be responsible for transporting your Equipment to and from the Nominated Installer's premises.
- 3.4 You will use all reasonable endeavours to use the Products on the Equipment promptly thereafter.

4 Customer obligations

- 4.1 You agree to:
- a. use (and arrange for) our Nominated Installer to carry out the installation of the Product into your Equipment at the Nominated Installer's premises;
 - b. store, handle, transport, and use the Products in accordance with the Operating Instructions and/or our recommendations, and you must ensure they are stored in a secure environment;
 - c. follow our directions when using the Products;
 - d. not damage or interfere with our Products or purport to install them on any equipment other than the Equipment;
 - e. protect the Products from exposure to any virus, worms or other destructive malware, and any unusual conditions, including but not limited to, fluctuations in power or interference of any kind (whether radio or electrical);
 - f. maintain the Products in good condition and not remove, alter, deface, obscure or otherwise render illegible any parts or markings on the Products;
 - g. notify us as soon as reasonably practicable if there is any failure of or damage to our Products or if you consider that any service or maintenance may be required to the Products; and
 - h. not move our Products out of where they are (or are due to be) located (**Access Location**) without our consent.

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- 4.2 You and your Representatives will only use the Products:
- a. in accordance with this Agreement and relevant law, and the Operating Instructions;
 - b. exercising reasonable care, skill and diligence; and
 - c. using suitably skilled, experienced and qualified personnel.
- 4.3 When using the Products, you will not:
- a. use plugs, circuits and other electrical components in relation to the Products other than those that are fully compliant with Australian safety and electrical standards;
 - b. install any software onto the Products, unless directed to by us;
 - c. use any accessories or components in relation to the Products other than those that are provided by us (but excluding the Equipment);
 - d. attempt to undermine the security or integrity of the Products;
 - e. attempt to open, dismantle, decompile, disassemble or reverse-engineer, or alter, modify or replace, any parts or components of the Products; and
 - f. use, or misuse, the Products in any way which may impair the functionality of the Products or the Equipment or impair the ability of any other user to use the Products or the Equipment.
- 4.4 You acknowledge that it is your responsibility to ensure that there is suitable internet network and connectivity (which may be reliant on your mobile data network signal strength) and GPS signal quality to operate the Products in the location that you choose to use the Products.
- 4.5 You acknowledge and understand that the terms of this Agreement, and the right to provide the Products to you in accordance with this Agreement, are subject in all respects to us being authorised by our licensors to do so, and while (at the date of this Agreement) we are authorised, that may change at any time, without notice to you.
- 4.6 A breach of any of the terms of this Agreement by your Representatives is deemed to be a breach of this Agreement by you, and you are responsible for procuring the compliance of your Representatives with the terms of this Agreement.
- 4.7 You are responsible for procuring all licences, authorisations and consents required for you and your Representatives to use the Products. In the event that you incur any infringement fine then that is your responsibility to pay in full.
- 4.8 You agree to provide us (and our Representatives) with unencumbered and unfettered access to the Access Location for the purposes of installing, maintaining, servicing, replacing, or retrieving those Products, which access must be safe and free of hazards and obstructions.

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- 4.9 You will comply with obligations under all applicable health and safety legislation, regulations, and codes of practice in relation to the use of the Products on the Equipment, including, but not limited to, those provided under the *Work Health and Safety Act 2011 (SA)* or equivalent Act depending on the state, and provide us or our Representatives with copies of relevant health and safety systems and policies in relation to our access to the Access Location.
- 4.10 You must keep us (and our Representatives) updated on all health and safety risks, hazards and requirements or issues which may be relevant to our access of the Access Location and provide us (and our Representatives) with any equipment that is necessary to ensure the health and safety of our Representatives at the Access Location.
- 4.11 We will endeavour to provide reasonable notice of requiring access to the Access Location.

5 Term

- 5.1 The term of this Agreement begins on the Commencement Date and expires 24 months thereafter, unless otherwise terminated in accordance with these Terms (**Initial Term**). On expiry of the Initial Term, this Agreement will continue to automatically renew for successive periods of 12 months, unless the Customer gives notice to us prior to expiry of the Initial Term and returns the Equipment to the Nominated Installer for removal of the Product, within 10 days of the expiry of the Initial Term, or such other date agreed with us (together, the **Term**).

6 Fees and GST

- 6.1 You agree to pay us the Fees.
- 6.2 We will provide you with valid GST tax invoices for the Fees on a monthly basis.
- 6.3 The Fees exclude GST, which you must pay on taxable supplies.
- 6.4 We may vary our Fees from time to time, by giving at least 28 Business Days' notice in writing. If you do not wish to pay the increased Fees, you may terminate this Agreement and your right to access and use the Products and Services on no less than 14 days' notice, provided the notice is received by us before the effective date of the Fee increase. If you do not terminate this Agreement and your right to access and use the Products and Services in accordance with this clause, you are deemed to have accepted the increased Fees.

7 Payment

- 7.1 You agree to pay the Upfront Fee to us in cleared funds immediately upon entry into this Agreement.
- 7.2 Unless agreed otherwise, Monthly Fees are billed in advance.



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- 7.3 Other than the Upfront Fee, we accept payment of Fees only via direct debit. As part of our application process, you have completed our direct debit requirements, and you authorise us (or, as applicable, our billing agent) to debit, from your nominated bank account, any Fees as and when due under this Agreement.
- 7.4 We may charge interest on overdue amounts. Interest will be calculated from the due date to the date of payment (both inclusive) at rate of 5% per annum.
- 7.5 We reserve the right to suspend or restrict any Products and/or Services that we provide for you until payment is made in full. Where your account is overdue we will give you 14 Business Days' notice before suspending any Products and/or Services (we may restrict a Products and/or Service without notice to you in appropriate circumstances such as a breach of clauses 4.1, 4.2 or 4.3). Where we suspend or restrict any Products and/or Services pursuant to this clause you will continue to remain liable for all Fees regardless of such suspension or restriction.

8 Product ownership and risk

- 8.1 Ownership in and title to the Products shall remain with us during and after the Term.
- 8.2 Risk in the Product passes to you upon installation of the Product into your Equipment by the Nominated Installer.
- 8.3 You shall not sell, rent, lease, licence, assign, mortgage, pledge, encumber or otherwise deal with the Products in a manner that is not provided for in this Agreement, and you will keep the Products in your own possession (at the Access Location) at all times during the Term.
- 8.4 You will be responsible for, and agree to pay for, any damage or loss to our Products caused by any reason other than fair wear and tear during the Term. You will hold and maintain insurance covering the Product for full replacement cost and for loss of value to include the Term. The insurance policy shall name the Supplier as a loss payee and shall cover all risks of physical loss or damage including risks of autonomous operation and loss and consequential damage. You must provide evidence of the insurance cover to us, upon request.
- 8.5 The PPSA applies to this Agreement and the terms 'attaches', 'collateral', 'financing change statement', 'financing statement', 'perfected' and 'personal property' as used in this clause have the meaning given to them in the PPSA.
- 8.6 You acknowledge that:
 - 8.6.1 you grant us a purchase money security interest (**PMSI**) under the PPSA in respect of the PPS Property; and
 - 8.6.2 the Security Interest created under this Agreement is a continuing and subsisting Security Interest in the PPS Property with priority over any registered or unregistered security and any unsecured creditor; and

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- 8.6.3 you consent to us registering our PMSI under the PPSA and will, without charge, do all things reasonably necessary to assist us to register our Security Interest.
- 8.7 If you default on any sum due for payment under this Agreement, we have the right to seize the PPS Property after giving 14 days written notice to you of our intention to seize the PPS Property.
- 8.8 If we want to seize the PPS Property in accordance with clause 8.7 but the PPS Property cannot be readily removed from your premises or adequate storage facilities are not readily available for the PPS Property, we may seize the PPS Property by taking apparent possession of the PPS Property.
- 8.9 The Security Interest arising under this clause attaches to the PPS Property when the PPS Property is delivered, not at any later time.
- 8.10 You must not change your name (including but not limited to any entity name or trading name), your address or place of incorporation or any other details required to be contained in a financing statement under the PPSA without our written consent.
- 8.11 Except if section 275(7) of the PPSA applies, the parties agree not to disclose any information of the kind referred to in section 275(1) of the PPSA that is not publicly available, and we agree not to provide any authorisation for the disclosure of such information.
- 8.12 You agree to waive any and all rights under the PPSA in respect of sections 125, 126, 142, 143, 95, 118(1)(b), 121(4), 123(2), 130, 132(3)(d), 132(4), 135, 129(2)(b) and 134(2)(b) of the PPSA.
- 8.13 You agree to irrevocably nominate, constitute and appoint us or our nominee as your true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause.
- 8.14 You agree to make payment to us of the reasonable expenses of registration.
- 8.15 You shall, where required by us, do anything (including making amendments to this Agreement or executing a new security document) for the purpose of:
- 8.15.1 ensuring a Security Interest created under this Agreement, attaches to the collateral intended to be covered by that Security Interest, the Security Interest is enforceable, perfected, maintained and otherwise effective, and any Security Interest created under this Agreement has the priority contemplated by this Agreement;
- 8.15.2 enabling the us to prepare and register a financing statement or financing change statement if we deem it necessary;
- 8.15.3 enabling us to exercise any of our powers in connection with any Security Interest created under or provided by this Agreement; and
- 8.15.4 providing information requested by us to enable us to exercise any of our powers or perform our obligations under the PPSA.

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9 Ownership of IP

- 9.1 Title to, and all Intellectual Property Rights in, the Products and Services is and remains our property (and our Manufacturer's and/or licensors' property) (**our Intellectual Property**). You must not contest or dispute that ownership, or the validity of those Intellectual Property Rights.
- 9.2 If you provide us with ideas, comments or suggestions relating to the Products or Services (together **feedback**):
- a. all Intellectual Property Rights in that feedback, and anything created as a result of that feedback (including new material, enhancements, modifications or derivative works), are owned solely by us (or the Manufacturer and/or licensor); and
 - b. we may use or disclose the feedback for any purpose.
- 9.3 Subject to clause 9.4, we grant to you a royalty-free, non-sublicensable, non-transferable, non-exclusive, revocable, limited, Australia-wide licence to use our Intellectual Property for the purposes of operating the Products, during the Term, in accordance with this Agreement (**Licence**).
- 9.4 You undertake and agree, during the Term, not to (and not to allow, authorise, cause, assist or direct any other party to):
- 9.4.1 rent, lease, sub-license, loan, translate, merge, adapt, vary or modify our Intellectual Property;
 - 9.4.2 make alterations to, or modifications of, the whole or any part of our Intellectual Property;
 - 9.4.3 permit our Intellectual Property or any part of it to be combined with, or become incorporated in, any other programs or software;
 - 9.4.4 disassemble, decompile, reverse-engineer or otherwise reduce our Intellectual Property to any human-readable form, or create derivative works based on the whole or any part of our Intellectual Property;
 - 9.4.5 provide or otherwise make available our Intellectual Property in whole or in part to any other party without our prior written consent;
 - 9.4.6 use our Intellectual Property in an unlawful, disingenuous, inappropriate, fraudulent or malicious manner, or in any manner inconsistent with this Agreement (as determined by us);
 - 9.4.7 infringe our rights in relation to our Intellectual Property;
 - 9.4.8 participate in any deceptive behaviour or manipulate our Intellectual Property in any way (as determined by us);
 - 9.4.9 use our Intellectual Property in a manner that does, or is likely to, disrupt our business or our Intellectual Property, or bring us (or any matter relating to our business) into disrepute (as determined by us); and

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- 9.4.10 challenge the validity of our Intellectual Property.
- 9.5 Upon the provision of any feedback to us, and/or the creation of any derivative works of, or improvements or enhancements to, our Intellectual Property (**New Intellectual Property**), by you, your employees, contractors or any individuals involved in the creation or development of the same (**Contributors**) (whether or not at our, your or their initiative) you:
 - 9.5.1 acknowledge and agree that the New Intellectual Property automatically vest in us (and/or our Manufacturers and licensors); and
 - 9.5.2 warrant and undertake that you will:
 - 9.5.2.1 obtain the consent of all Contributors to any of our acts or omissions which may be in breach of the Moral Rights that may be held by those individuals in any works constituting, containing or created in connection with the New Intellectual Property; and
 - 9.5.2.2 do (and will procure all Contributors to do) all things and sign all documents that may be necessary to vest and secure ownership, registration or other protection of such New Intellectual Property in us (and/or our Manufacturer's and licensors), as applicable.

10 Confidentiality

- 10.1 Each party must, unless it has the prior written consent of the other party:
 - a. keep confidential at all times the Confidential Information of the other party;
 - b. effect and maintain adequate security measures to safeguard the other party's Confidential Information from unauthorised access or use; and
 - c. disclose the other party's Confidential Information to its Representatives or professional advisors on a need to know basis only and, in that case, ensure that any Representative or professional advisor to whom it discloses the other party's Confidential Information is aware of, and complies with, clauses 10.1(a) and 10.1(b).
- 10.2 Confidential Information must be returned or destroyed immediately upon our request, unless it is required to be retained by law.
- 10.3 The obligation of confidentiality in clause 10.1 does not apply to any disclosure or use of Confidential Information:
 - a. for the purpose of performing a party's obligations, or exercising a party's rights, under this Agreement;
 - b. required by law (including under the rules of any stock exchange);
 - c. which is publicly available through no fault of the recipient of the Confidential Information or its Representatives;
 - d. which was rightfully received by a party from a third party without restriction and without breach of any obligation of confidentiality; or

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- e. by us if required as part of a bona fide sale of our business (assets or shares, whether in whole or in part) to a third party, provided that we enter into a confidentiality agreement with the third party on terms no less restrictive than this clause 10.

11 Termination

- 11.1 At any time during the Term, either party may terminate this Agreement at any time by giving the other at least 30 days prior written notice. Where a Minimum Term applies (as indicated in the Key Terms) and you terminate during the Minimum Term, an Early Termination Fee will apply. See clause 11.4(d) for details.
- 11.2 In addition to clause 11.1, either party may terminate this Agreement at any time immediately and without penalty if the other party:
 - a. materially breaches this Agreement (including failure to pay any Fees or where your direct debit is dishonoured (as applicable); or
 - b. (or its directors/principals) goes into liquidation, bankruptcy, or receivership; or
 - c. has a receiver or statutory manager appointed over any or all of its assets; or
 - d. is deregistered, dissolved, or dies; or
 - e. commits an act of fraud, theft, or dishonesty that impacts the other party.
- 11.3 Without limitation to any other rights available to it, we may terminate this Agreement, without prior notice to you:
 - 11.3.1 if any invoice is more than 30 days overdue in payment; or
 - 11.3.2 if we are no longer authorised by our licensors to provide the Products to you.
- 11.4 Upon the earlier of the expiry or termination of this Agreement (regardless of the grounds for termination), you agree:
 - a. the Licence shall automatically be revoked;
 - b. to (within 7 days) return the Equipment at your own expense to the Nominated Installer, who will arrange for the Product to be removed from your Equipment;
 - c. that we may debit your nominated bank account with the amount equal to the Monthly Fees to pay for the removal of the Products from your Equipment; and
 - d. that, if you have agreed to a Minimum Term and you terminate this Agreement prior to the end of that Minimum Term under clause 11.1 or we terminate this Agreement due to your default under clause 11.2 or 11.3, we may debit your nominated bank account with (or you will otherwise pay in one lump sum) liquidated damages (in the form of an Early Termination Fee) equal to the amount that you would have paid for the remainder of the Minimum Term had you not terminated this Agreement (**Early Termination Fee**). The

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- e. Early Termination Fee applies because we have priced your Fee on the basis that you will not terminate this Agreement prior to the end of your agreed Minimum Term.

12 Warranties

- 12.1 You represent and warrant that all information provided to us is accurate, and you shall ensure that such information is kept current. You can update your information at any time by sending an e-mail to info@agriautomation.com.au
- 12.2 We warrant the Products and Services will be provided to you in accordance with generally prevailing industry standards. You must report any material deficiencies in the Products or Services to us in writing within 7 days of discovery of the defect.
- 12.3 In the event of any breach of the warranties in clauses 12.2 or 12.3 or any other defect or deficiency in the Products or Services, your sole remedy will be limited to (at our option) the repair or replacement of the non-conforming Product or Service (or re-performance of the non-conforming Service) within a commercially reasonable time or a refund of the fee paid by you for such non-conforming Product or Service.

13 Limitation of Liability

- 13.1 Beyond the warranties in clauses 12.2 and 12.3, the Products and Services are provided, to the extent permitted by law on an 'as is' basis without any warranty or condition of any kind, either express or implied. Use of the Products and Services (and any part of them) is at your own risk.
- 13.2 The warranties set out in clause 12 above will not apply (and you will be responsible) if:
 - a. The issues you have with the Products or Services are caused by a lack or quality of internet network or connectivity or GPS signal quality at the location where you choose to use the Products;
 - b. The Products are modified, misused, mishandled or otherwise tampered with (or dealt with in a manner that is not in accordance with this Agreement) following installation in the Equipment;
 - c. The Products are adversely affected by any issue that arises in the Equipment, including a breakdown of the Equipment;
 - d. The Product is removed from the Equipment and/or installed into other equipment;
 - e. The Products have been improperly stored;
 - f. Any defect or deficiency in the Products is due to accident, neglect or misuse, or arises directly or indirectly from or in connection with any breach by you of this Agreement; or
 - g. The issue arises for any other reason outside our control.

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- 13.3 You acknowledge and agree that:
- a. We are not liable for any damage or loss that is directly or indirectly caused by (or results from):
 - (A) your use of the Equipment;
 - (B) termination under clause 11.3.2; and
 - (C) your unlawful, wrongful, wilful or negligent acts or omissions.
 - b. We do not represent that the Products or Services (or any part of them) will satisfy all of your requirements.
 - c. We do not provide any warranties in respect of the timeliness of supply or installation of Products.
 - d. We are not responsible for any loss or damage to the Products or to you or your property or any other person or property to the extent this is caused by you or your Representatives not storing, handling, transporting or operating the Products in accordance with the Operating Instructions and the other provisions of this Agreement.
 - e. We cannot guarantee that the hardware contained in the Products will be free from viruses, trojan horses, worms, timebombs, or similar harmful programming routines.
 - f. Without limitation, to the fullest extent allowable by law, the disclaimers in this clause extend to implied warranties or conditions of merchantable quality or fitness for a particular purpose or warranties arising by statute or otherwise in law or from a course of dealing or usage of trade.
- 13.4 You acknowledge that our supply of the Products and Services can depend on third party suppliers and that delays can be caused due to circumstances outside our control. In such cases we will not be liable to you for any costs and/or damages incurred for any such delays or outage.
- 13.5 Regardless of the cause of any delay or outage or use of the Services and/or Products, to the fullest extent permitted by law, we exclude all liability for damage or loss (including without limitation, financial or economic loss, damages for loss, any alleged loss of/in business projects, loss of profits, revenue or anticipated savings, loss or damage to reputation or goodwill, indirect or inconsequential losses, punitive or special damages), arising in contract, tort (including negligence), equity or otherwise from the use, delay, or temporary or permanent unavailability of all or any part of the Products and/or Services, or from any action or decision taken as a result of using the Products and/or Services. You agree to such exclusion of liability.

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13.6 If for any reason, we are found liable to you, notwithstanding the exclusion of liability set out above, in no case shall our aggregate liability for any loss or damage, whether direct or indirect, incurred by you, or anyone claiming through you, exceed the amount of the Fees paid by you in the 6 month period preceding the earliest date of the alleged event giving rise to any claim for damages or compensation.

14 Indemnity

14.1 You agree to indemnify and hold us, the Manufacturer, the Nominated Installer, our third party licensors, resellers, suppliers (and their directors, officers and employees), and any of our Representatives harmless from all claims, liabilities, damages, losses (including legal fees) and expenses, due to or arising out of your use of the Products or Services, and/or any breach of this Agreement by you. Except as expressly provided for in this Agreement, we will not be liable to you or to any other person for any claim, liability, damage, loss or expense arising directly or indirectly out of or in connection with the Products or Services, the implementation, maintenance, operation or use of the Products or Services or otherwise in connection with this Agreement.

15 Force Majeure

15.1 Neither party will be liable to the other for any failure to perform its obligations under this Agreement caused by any circumstance beyond its reasonable control (including, but not limited to, an act of God, pandemic, epidemic, fire, lightning, earthquake, explosions, flood, subsidence, government acts, regulations or orders including in relation to COVID-19 and other public health matters, insurrection or civil disorder or military operations or act of terrorism, expropriation, strikes, lock-outs or other industrial disputes of any kind not relating solely to the party affected) provided that party uses its reasonable endeavours to perform despite the cause. This provision does not apply to lack of financial resources or disputes with a party's own Representatives. The party failing to perform will:

- (a) promptly give written notice to the other party specifying the cause and extent of its failure to perform;
- (b) take all reasonable steps to remedy or abate the cause and extent of its failure to perform; and
- (c) resume performance of its obligations under this Agreement as soon as possible.

16 Notices

16.1 We will send invoices and other notices to your email address set out in the 'Customer' section of the Key Terms. Please inform us in writing if you change email addresses. Our address and contact details are available on our website at <https://amegroup.com.au/go-track>.

16.2 Any invoice or notice will be deemed to have been delivered on the other party:

- (a) in the case of personal delivery, when received;

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- (b) in the case of posting by "track and trace" or similar delivery, then when delivered; and
- (c) in the case of email, when the sender's information system states that the invoice or notice has been sent.

17 Assignment

- 17.1 We may, at our sole discretion, assign or subcontract any or all of our obligations under this Agreement without your consent.
- 17.2 You may not assign this Agreement or any of the rights granted to you hereunder without our prior written consent.

18 Privacy and Communication

- 18.1 You agree to abide by and comply with our privacy statement located at <https://amegroup.com.au/go-track/>. You agree that we can send you information relating to our products and/or services by using electronic messages or other means. You may unsubscribe from the electronic messaging services at any time by emailing us at info@agriautomation.com.au

19 Survival

The following provisions shall survive the termination or expiry of this Agreement: clause 7 (Payment), clause 8 (Product ownership and risk), clause 9 (Ownership of IP), clause 10 (Confidentiality), clause 11 (Termination), clause 12 (Warranties), clause 13 (Limitation of Liability), clause 14 (Indemnity), clause 18 (Privacy and Communication), clause 19 (Survival) and clause 20 (Miscellaneous Provisions).

20 Miscellaneous Provisions

- 20.1 This Agreement constitutes the entire agreement between the parties pertaining to its subject matter and it supersedes all prior agreements, representations and understandings of the parties.
- 20.2 The Agreement shall be governed by and shall be construed in accordance with the laws of South Australia, Australia and any claim made by either party against the other which in any way arises out of the Agreement will be heard in South Australia, Australia and you agree to submit to the jurisdiction of the courts of Australia.
- 20.3 If any part of the Agreement is unenforceable (including any provision excluding or limiting our liability) the enforceability of the remainder of the Agreement will not be affected.

Agri Automation Australia Pty Ltd

1800 919 328

www.agriautomation.com.au

123 Ferries McDonald Rd, Monarto South SA



AGRI AUTOMATION

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- 20.4 No amendment to this Agreement is effective unless it is in writing and signed by all parties to this Agreement.
- 20.5 This Agreement may be executed in any number of counterparts and all of those counterparts taken together will be deemed to constitute the same agreement.
- 20.6 Each party warrants, undertakes and represents to the other party that it has the necessary power and authority to execute, deliver and perform this Agreement and to become bound by it and that all necessary corporate action has been taken to authorise the execution of this Agreement.
- 20.7 This Agreement is deemed to be signed by a party if that party has signed or has attached its signature(s) to, either an original, a photocopy or a PDF or email image copy, and if each party has signed or attached its signature(s) to any such format and delivered it in any such format to the other parties, the executed formats shall together constitute a binding agreement between the parties.

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