

DIGISAT TECHNOLOGY AUSTRALIA PTY LTD
ACN 130 415 520
(“Company”)
Trading Terms and Conditions
For Sale of Goods and Services

These Trading Terms & Conditions (“Terms”) apply (unless otherwise previously agreed in writing) to the supply of Goods by the Company to a Customer from time to time. Any supply of Goods by the Company to the Customer made after the date of acceptance of these Terms is a supply pursuant to the supply agreement constituted by these Terms and the relevant order accepted by the Company (‘Agreement’) and any such supply does not give rise to a new or separate agreement.

1. Interpretation

In these Terms unless the contrary intention appears:

“**Additional Charges**” includes all delivery, handling and storage charges, goods and services tax, stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the Purchase Price, payable by the Customer to Company arising out of the sale of the Goods.

“**Customer**” means the person to or for whom the Goods are to be supplied by Company.

“**Force Majeure Event**” means any event outside the reasonable control of Company including acts of God, war, riots, strikes, lock outs, trade disputes, break downs, mechanical failures, interruptions of transport, government action or any other cause whatsoever, whether or not of a like nature to those specified above.

“**Goods**” means the goods sold to the Customer by Company and includes any services provided by Company to Customer.

“**Company**” means DigiSat Technology Australia Pty Ltd, ACN 130 415 520.

“**PPSA**” means the *Personal Property Securities Act 2009 (Cth)*

“**Purchase Price**” means the price for the Goods as charged by the Company pursuant to a Quotation or such other price as may be agreed by Company and the Customer prior to delivery of the Goods.

“**Quotation**” means a quotation given by Company to the Customer, whether in writing or otherwise.

2. Order for Goods

2.1 An order given to Company is binding on Company and the Customer, if:

2.1.1 a written acceptance is signed for or on behalf of Company; or

2.1.2 the Goods are supplied by Company in accordance with the order.

2.2 An acceptance of the order by Company is then to be an acceptance of these Terms by Company and the Customer and these Terms

will override any conditions contained in the Customer’s order. Company reserves the right to accept a part only of any order by notifying the Customer in writing or by delivering the Goods to the Customer. No order is binding on Company until accepted by it.

2.3 An order which has been accepted in whole or in part by Company cannot be cancelled by the Customer without obtaining the prior written approval of Company, which it may refuse in its absolute discretion. Where cancellation is approved by Company, and except where Company has incorrectly supplied Goods or provided faulty Goods, Company reserves the right to claim payment from the Customer and Customer agrees to pay, all costs and fees associated with the return of Goods including but not limited to restocking, return transport, labour and administration costs.

2.4 All Quotations are estimates only and the Company reserves their rights to change Quotations or invoices at any time, subject to variations in the scope of works which occur as a result of factors outside the control of the Company including but not limited to:

2.4.1 any pre-existing installation or cabling that is found to be faulty;

2.4.2 works outside normal working hours of 7am-5pm Monday to Friday; and

2.4.3 sites being inadequately prepared by the Customer, their agents or contractors for the delivery of Goods, determination of such to be at the sole discretion of the Company.

2.5 Any Quotation for an antenna installation provided without a prior signal survey is based upon the assumption that the signals at the relevant location are of sufficient quality using a mast assembly of up to a maximum of 4 meters in height. Further charges may apply if a higher mast, more than one mast assembly or any other additional equipment needs to be installed to improve signals to required levels and/or quality.

- 2.6 While every effort is made to fulfil any specification requested by the Customer or their architects, agents or consultants, Company reserves the right to alter these specifications without notice to the Customer, while at all times abiding to industry standards and common industry practice, in the event where the specifications provided are:
- 2.6.1 unclear or contradictory;
 - 2.6.2 technically not feasible for the correct performance of a system;
 - 2.6.3 technically incorrect or inappropriate or unnecessary as determined from the Company's experience; or
 - 2.6.4 not in accordance with current industry standards or common industry practice.
3. **Warranties**
- 3.1 Company liability is limited to, to the extent permissible by law and at Company's option;
- 3.1.1 in relation to the Goods:
 - i. the replacement of the products or the supply of equivalent products
 - ii. the repair of the products
 - iii. the payment of the cost of replacing the products or of acquiring equivalent products; or
 - iv. The payment of the cost of having the products repaired
 - 3.1.2 Where the Goods are services:
 - i. the supply of service again; or
 - ii. the payment of the cost of having the services supplied again.
- 3.2 Any claims to be made against Company for short delivery of Goods must be lodged with Company in writing within 7 days of the delivery date.
- 3.3 To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these Terms are excluded and Company is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate Customer for:
- 3.3.1 any increased costs or expenses;
 - 3.3.2 any loss of profit, revenue, business, contracts or anticipated savings;
 - 3.3.3 any loss or expense resulting from a claim by a third party; or
 - 3.3.4 any special, indirect or consequential loss or damage of any nature whatsoever caused by Company's failure to complete or delay in completing the order to deliver the Goods.
- 3.4 This clause 3.4 applies if the Customer is purchasing the Goods as a consumer for the purposes of the Australian Consumer Laws.
- 3.4.1 Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failure with services you are entitled:
 - 3.4.1.1 to cancel your services contract with us; and
 - 3.4.1.2 to a refund for the unused portion, or to compensation for its reduced value
 - 3.4.2 You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and cancel the contract for the service and obtain a refund of any used portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or services.
- 3.5 The Company where possible, will use products designed to meet Australia's Digital TV and Satellite specification which will, if applicable carry original manufacturer or distributor's warranties.
- 3.6 The Company warrants its installation and programming works against errors under normal use for 12 months after delivery. No warranty service will be provided until full payment for the Goods has been received under these Terms and Conditions or if unauthorised agents perform works on the Goods after delivery. This warranty does not include issues concerning existing equipment of the Customer, program revisions and the like, which will attract further charges.

4. **Delivery**

- 4.1 The times quoted for delivery are estimates only and Company accepts no liability for failure or delay in delivery of Goods. The Customer is not relieved of any obligation to accept or pay for Goods by reason of any delay in delivery. Goods may be delivered by instalments at the discretion of Company.
- 4.2 Risk in accepting the Goods passes on delivery to the Customer.
- 4.3 For the avoidance of doubt the Company will not be liable for any damage caused to the Goods after delivery whether by the Customer, their agent, employees, contractors or an unrelated third-party.
- 4.4. All Additional Charges are payable by the Customer in addition to the Purchase Price of the Goods.
- 4.5. Return of Goods will not be accepted by Company except by prior agreement in writing with Company. Any Goods returned will be subject to a restocking charge of 10% of the Purchase Price of those Goods.

5. **Price and Payment**

- 5.1 The Customer must pay the Purchase Price and the Additional Charges to Company as follows:
 - 5.1.1 30% of the Purchase Price (total project value) payable upon acceptance of an order as a non-refundable deposit.
 - 5.1.2 all other invoices paid within 14 days of the date of invoice unless specified otherwise.
- 5.2 If the Customer is in default, Company may at its option withhold further deliveries or cancel a contract without prejudice to any of its existing rights.
- 5.3 All payments are due within 14 days of the date of invoice. Interest is charged at the rate of 1.5% per month or part of a month from the expiry of that period until the date payment is received by Company. Company also reserves its right to charge administration fees for any payment reminder notices issued to the Customer for late payment of an invoice. The Company will issue a payment reminder notice to the Customer every fortnight from the date that payments are due and each late payment reminder notice will incur a \$20.00 administration fee which will be due and payable to Company along with any outstanding payments.

5.4 All amounts payable by the Customer under these Terms must be paid without set-off or counter claim of any kind.

5.5 The Customer acknowledges that all invoices issued by the Company are issued pursuant to the Building and Construction Industry Security of Payment Act 1999.

6. **Occupational Health and Safety**

- 6.1 The Company complies with OH&S standards and recognises Safe Work on Roofs Code of Practice.
- 6.2 In the event that the Company is working in the capacity of a sub-contractor, the Company will provide their general Safe Work Method Statement (SWMS) and other relevant documents to the Main-Contractor to be site specific updated, approved and included in their SWMS.

7. **Retention of Title**

- 7.1 Ownership, title and property in the Goods and in the proceeds of sale of those Goods remains with Company until payment in full for the Goods and all sums due and owing by the Customer to Company on any account has been made. Until the date of payment the Goods are always at the risk of the Customer.
- 7.2 The Customer is deemed to be in default immediately upon the happening of any of the following events:
 - 7.2.1 if any payment to Company is not made promptly before the due date for payment;
 - 7.2.2 if the Customer ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any cheque or bill of exchange drawn by the Customer payable to Company is dishonoured;
- 7.3 In the event of a default by the Customer, then without prejudice to any other rights which Company may have at law or under this Agreement:
 - 7.3.1 Company or its agents may without notice to the Customer enter the Customer's premises or any premises under the control of the Customer for the purposes of recovering the Goods.
 - 7.3.2 Company may recover and resell the Goods;
 - 7.3.3 if the Goods cannot be distinguished from similar Goods which the Customer has or claims to have paid for in full, Company may in its absolute discretion seize

all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of Company and the Customer may be ascertained. Company must promptly return to the Customer any goods the property of the Customer and Company is in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods.

- 7.3.4 In the event that the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for Company. Such part will be an amount equal in dollar terms to the amount owing by the Customer to the Company at the time of the receipt of such proceeds. The Customer will pay Company such funds held in trust upon the demand of Company.
- 7.4 Separately, Customer hereby charges all its right, title and interest to and in the proceeds of sale of the Collateral (as defined in the PPSA) as original collateral, or any of it, in favour of the Company.
8. **PPSA**
- 8.1 Defined terms in this clause have the same meaning as given to them in the PPSA.
- 8.2 Company and the Customer acknowledge that these Terms constitute a Security Agreement and entitle the Company to claim:
- (a) a Purchase Money Security Interest ("PMSI") in favour of Company over the Collateral supplied or to be supplied to the Customer as Grantor pursuant to these Terms; and
- (b) a security interest over the proceeds of sale of the Collateral referred to in (a) as original collateral.
- 8.3 The goods supplied or to be supplied under these Terms fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms.
- 8.4 The Proceeds of sale of the Collateral referred to in clause 8.2(a) falls within the PPSA classification of "Account".
- 8.4 Company and the Customer acknowledge that Company, as Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to Customer pursuant to these Terms and in the relevant Proceeds.
- 8.5 To the extent permissible at law, the Customer:
- 8.5.1 waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer to Company.
- 8.5.2 agrees to indemnify Company on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;
- 8.5.2.1 registration or amendment or discharge of any Financing Statement registered by or on behalf of Company; and
- 8.5.2.2 enforcement or attempted enforcement of any Security Interest granted to Company by the Customer;
- 8.5.3 agrees that nothing in sections 130 and 143 of the PPSA will apply to these Terms or the Security under these Terms;.
- 8.5.4 agrees to waive its right to do any of the following under the PPSA:
- 8.5.4.1 receive notice of removal of an Accession under section 95;
- 8.5.4.2 receive notice of an intention to seize Collateral under section 123;
- 8.5.4.3 object to the purchase of the Collateral by the Secured Party under section 129;
- 8.5.4.4 receive notice of disposal of Collateral under section 130;
- 8.5.4.5 receive a Statement of Account if there is no disposal under section 132(4);
- 8.5.4.6 receive a Statement of Account under section

132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.

- 8.5.4.7 receive notice of retention of Collateral under section 135;
- 8.5.4.8 redeem the Collateral under section 142; and
- 8.5.4.9 reinstate the Security Agreement under section 143.

8.5.5 All payments received from the Customer must be applied in accordance with section 14(6)(c) of the PPSA.

9 On-Sale

The Customer agrees that upon the on-sale of any Goods to third parties, it will:

- 9.1.1 inform any third party involved of these Terms;
- 9.1.2 inform any third party of the Company's product warranties if any; and
- 9.1.3 not make any misrepresentations to third parties about the Goods.

10. Trustee Capacity

If Customer is the trustee of a trust (whether disclosed to Company or not), Customer warrants to Company that:

- 10.1 Customer enters into this Agreement in both its capacity as trustee and in its personal capacity;
- 10.2 Customer has the right to be indemnified out of trust assets;
- 10.3 Customer has the power under the trust deed to enter into this Agreement; and
- 10.4 Customer will not retire as trustee of the trust or appoint any new or additional trustee without first advising the Company.

11. Indemnity

To the full extent permitted by law, Customer will indemnify Company and keep Company indemnified from and against any liability and any loss or damage Company may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of

any of these Terms by Customer or its representatives.

12. General

12.1 These Terms are to be construed in accordance with the laws from time to time in the State of New South Wales and the Commonwealth of Australia. The parties submit to the non-exclusive jurisdiction of the Courts of New South Wales, Australia and any courts which may hear appeals from those courts in respect to any proceedings in connection with these Terms.

12.2 These Terms contain all of the terms and conditions of the contract between the parties and may only be varied by agreement in writing between the parties.

12.3 Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Agreement.

12.4 No waiver of any of these Terms or failure to exercise a right or remedy by Company will be considered to imply or constitute a further waiver by Company of the same or any other term, condition, right or remedy.

13. Force Majeure

13.1 Company will not be liable for the consequences of any failure or delay in performing any of its obligations under these Terms to the extent that such failure or delay is due directly or indirectly to any Force Majeure Event.

13.2 If a Force Majeure Event arises, Company will notify the Customer in writing of the Force Majeure Event and the likely impact it will have on Company's performance under these Terms. If the Force Majeure Event affects the capacity of Company to complete its material obligations under these terms in a timely manner, Company may by notice to the Customer terminate this Agreement without any liability whatsoever on its part arising from that termination.

Signature: _____

Position: _____

Date: _____