

**LIQUIDWARE LABS, INC.**  
**SOFTWARE LICENSE AGREEMENT V.201703**

This Software License Agreement (“Agreement”) is between Liquidware Labs, Inc. (“Liquidware”) and a Customer (“Customer”).

**BACKGROUND.** The terms and conditions of this Agreement apply to all Orders between Liquidware and the Customer. In the event of a conflict between the provisions in an Order and this Agreement, the provisions of this Agreement will govern and control to the extent of such conflict unless a provision in an Order is expressly agreed to by Liquidware, in which case and only to the extent expressly agreed, the Order will govern. Liquidware and Customer may also enter into one or more addenda to this Agreement upon mutual written consent. In the event of a conflict between the provisions in an addendum and this Agreement or an Order, the provisions in the addendum shall govern and control to the extent of such conflict. The terms of an Order and this Agreement will prevail over any conflicting provision in any purchase order or any other instrument of Customer regardless of execution by Liquidware unless such provision is expressly agreed to by Liquidware.

**1. DEFINITIONS.** As used in the Agreement, and in addition to any other terms defined herein, the following terms have the following meanings:

“Agreement” means this Agreement and one or more Orders and one or more Statements of Work if applicable and one or more addenda if applicable.

“Documentation” means the Liquidware authored user guides and manuals accompanying the Licensed Software and any “Help” files accessible during use of the Licensed Software.

“Effective Date” means the date of execution of an Order.

“Error” means a substantial failure of a supported version of the Software to perform the material functions described in the Documentation.

“Error Correction” means either a software modification or addition that, when made or added to a supported version, causes the Licensed Software to perform the material functions described in the Documentation.

“License” means the collective license rights granted to Customer according to the terms of Section 2.

“Licensed Software” means the software licensed under this Agreement.

“Order” means Liquidware’s sales order form incorporating this Agreement and executed by the authorized representatives of both Customer and Liquidware.

“Perpetual License” means a perpetual License to the Licensed Software according to the terms of Section 2.

“Third Party Software” means software that is included in or provided with the Licensed Software that is not proprietary to Liquidware and that is identified in the Documentation as third party software.

“Subscription License” means a time-limited License to the Licensed Software according to the terms of Section 2.

“User” means the number of named individuals who may use the Licensed Software as specified in an Order.

“Update” means a Licensed Software release that is (i) generally deemed by Liquidware to be an Error Correction release and generally does not contain new functionality, and (ii) generally provided to Liquidware’s customers as part of Support Services for the Licensed Software. Updates are typically designated by a change in the digit of the release number to the right of the decimal (i.e., X.1 to X.2).

“Upgrade” means a Licensed Software release that (i) contains new functionality and enhancements in addition to Error Corrections, and (ii) is generally provided to Liquidware’s customers as part of Support Services for the Licensed Software. Upgrades are typically designated by a change in the digit of the release number to the left of the decimal (i.e., 1.X to 2.Y).

**2. LICENSED SOFTWARE TERMS.**

**2.1 License.** Subject to the terms of the Agreement, Liquidware grants Customer, upon payment of the applicable license fees, the limited, non-exclusive, nontransferable (except as provided in Section 4.14) right and license to (i) use the executable version of the Licensed Software on the number of Users set forth in the applicable Order(s); (ii) make a reasonable number of backup copies of the Licensed Software as needed for archival use only; and (iii) make copies of the Documentation for Customer’s internal use, for (iv) a period of time as set forth in the Order. Each Order will indicate the maximum number of Users for which the Licensed Software is licensed and will designate whether the License is a Perpetual License or a Subscription License (and if the later, for what period of time). Customer may not use the Licensed Software with more than the authorized number of Users.

**2.2 Termination.** The License is effective until terminated either upon expiration of an Annual Subscription Term or as set forth in this Section. Customer may terminate a License at any time by (i) ceasing its use of the Licensed Software, and (ii) either returning to Liquidware or destroying all copies of the Licensed Software in Customer’s possession or control. Liquidware may terminate the License if (i) Customer fails to pay any amounts outstanding at least thirty (30) days after the invoice date and at least fifteen (15)

days after written notice of such payment default has been sent to Customer, or (ii) Customer continues to violate any material terms and conditions of this Agreement after Liquidware delivers written notice of such violation to Customer and provides Customer at least fifteen (15) days after the date of such notice to cure the violation. Upon any termination of the License, Customer shall (i) immediately cease all use of the Licensed Software, (ii) either return to Liquidware or destroy all copies of the Licensed Software in Customer’s possession or control and (iii) certify in writing to Liquidware that its responsibilities in (i) and (ii) above have been promptly performed.

**2.3 Limitations.** Customer shall not, and shall not permit others to: (i) transfer or sublicense the Licensed Software; (ii) provide third parties with access to the Licensed Software; (iii) trace, disassemble, reverse engineer or decompile the Licensed Software, source code, structure, algorithms or ideas underlying such Licensed Software, or cause or permit reverse engineering, disassembly or recompilation of the Licensed Software; (iv) avoid, circumvent or disable any security device, procedure, protocol or mechanism that Liquidware may include, require or establish with respect to the Licensed Software; (v) publish or provide the results of any benchmark or comparison tests run using the Licensed Software to any third party; or (vi) modify the Licensed Software.

**2.4 Third Party Software.** The Documentation identifies all Third Party Software. In addition to the terms set forth in this Agreement, the Third Party Software is provided according to the license terms set forth in the Documentation regarding such Third Party Software.

**2.5 Reservation of Rights.** Liquidware reserves all rights not expressly granted herein. Except as set forth in the Agreement, no express or implied license or right of any kind is granted to Customer regarding the Licensed Software, including, but not limited to, any right to use, reproduce, market, sell, distribute, transfer, translate, modify, adapt, and disassemble, decompile, or reverse engineer the Licensed Software or create derivative works based on the Licensed Software or any portions thereof, or obtain possession of any source code or other technical material relating to the Licensed Software.

**2.6 Ownership.** Liquidware and its licensors reserve all rights not expressly granted herein. The License is not an agreement for sale of software. Except as set forth in the Agreement, no express or implied license or other right of any kind regarding the Licensed Software is granted to Customer. Customer shall reproduce and include the copyright notices and other proprietary notices on all copies of the Licensed Software that Customer is authorized to make.

**2.7 Restricted Rights.** The Licensed Software is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Restricted Rights clause at FAR 52.227-19, subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause in DFARS 252.227-7013, or subparagraph (d) of the Commercial Computer Software Licensing at NASA FAR Supplement 16-52.227-86, or their equivalent, as applicable. Contractor/manufacturer is Liquidware Labs, Inc., 3600 Mansell Road, Suite 200, Alpharetta, Georgia 30022.

**2.8 Software Warranties.** Liquidware warrants to Customer for a period of ninety (90) days after the Effective Date (the “Warranty Period”) that (i) the Licensed Software will substantially perform in accordance with the Documentation; (ii) the storage media, if any, upon which the Licensed Software is delivered is free of defects in material and workmanship under normal use; and (iii) the Licensed Software does not contain any known virus or other routine that can disable, erase or otherwise harm the Licensed Software, or Customer’s other software or data. The above warranties specifically exclude defects resulting from: (i) modifications made to the Licensed Software by anyone other than Liquidware; (ii) Customer’s failure to install the most recent Error Correction, Update or Upgrade; (iii) Customer’s use of the Licensed Software in connection with any computer equipment or devices that do not meet the minimum requirements set forth in the Documentation; or (iv) Customer’s use of the Licensed Software in a manner that is not authorized in the Agreement. Liquidware does not warrant that use of the Licensed Software will be uninterrupted or error free. The Warranty Period only applies to each new License for Licensed Software obtained by Customer and delivery of Error Corrections, Updates and Upgrades shall not restart or have any other affect on the Warranty Period.

**2.9 Software Warranty Remedies.** Customer’s sole and exclusive remedy and Liquidware’s sole responsibility for a breach of the warranty in Section 2.8 is to either repair or replace, at Liquidware’s option, the non-conforming Licensed Software; provided, however, that Liquidware receives a warranty claim during the Warranty Period.

**2.10 Infringement Indemnity.**

(a) If an action is brought against Customer claiming that the Licensed Software infringes any third party copyright or patent or misappropriates any third party trade secret rights, then Liquidware shall indemnify and hold Customer harmless against all damages and costs awarded against Customer, or settlements entered into by Liquidware on Customer's behalf, in the action, subject to Section 2.10(b) below, but only if: (i) Customer notifies Liquidware promptly in writing upon learning of such claim; (ii) Liquidware is given sole control of any proceedings or negotiations in connection with the claim; (iii) Customer takes no action that in Liquidware's reasonable judgment materially impairs Liquidware's defense of the claim; and (iv) Customer cooperates and assists in the defense or settlement of the claim, as reasonably requested by Liquidware.

(b) In performing its indemnity obligations in Section 2.10(a), Liquidware may, at its option and expense, either (i) substitute a substantially equivalent non-infringing item for the infringing item; (ii) modify the infringing item so that it no longer infringes but remains functionally equivalent; or (iii) obtain for Customer the right to continue using such item. If none of the foregoing is commercially practicable in Liquidware's reasonable opinion, Liquidware may terminate the applicable License, accept a return of the infringing Licensed Software and refund to Customer the following portion of the license fees paid therefore: (x) for a Perpetual License, license fees shall be amortized over five (5) years and the prepaid portion subject to refund, or (y) for a Subscription License, any prepaid fees shall be subject to refund. The indemnity in Section 2.10 will not apply if and to the extent that the infringement claim results from (i) a modification of the Licensed Software not provided by Liquidware; (ii) a failure to promptly install an Error Correction, Update or Upgrade; or (iii) the combination of the Licensed Software with items not provided by Liquidware.

(c) NOTWITHSTANDING ANY OTHER PROVISIONS OF THE AGREEMENT OR AN ORDER, THIS SECTION 2.10 STATES THE ENTIRE LIABILITY AND OBLIGATION OF LIQUIDWARE WITH RESPECT TO ANY CLAIM OF INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

**2.11 Audit.** Liquidware may, at its expense, conduct an audit to verify that Customer is using the Licensed Software in accordance with this Agreement. Any such audit shall be conducted during regular business hours, not more than once per year, and shall not unreasonably interfere with Customer's business activities. If an audit reveals that Customer has distributed or allowed use of the Licensed Software in excess of the use permitted by the Order and this Agreement, then Customer shall pay Liquidware for such unauthorized use based on the Liquidware retail price list in effect at the time the audit is completed. If the unpaid license fees exceed five percent (5%) of the license fees paid, then Customer shall pay Liquidware's reasonable costs of conducting the audit.

### 3. SERVICES.

#### 3.1 Support Fees.

(a) Support Services for a Perpetual License are offered to Customer at Liquidware's then-current fee structure ("Support Fees"). Liquidware offers Support Services on a twelve (12) month cycle that begins on the Effective Date (each such twelve (12) month cycle being an "Annual Support Term"). At the time of ordering Licensed Software, Customer may elect to lock-in the price for Support Fees by purchasing Support Services for one or more Annual Support Terms. Except where Customer has pre-paid Support Fees as described above, on or about forty five (45) days prior to commencement of the next Annual Support Term, Customer will be invoiced the then-current Support Fees for the Support Services for the next Annual Support Term. If the invoiced Support Fees are not paid on or before commencement of the Annual Support Term, then the Support Services shall lapse. If Customer licenses additional Licensed Software over the course of any Annual Support Term, then Liquidware may prorate the renewal Support Fees for expiring Support Services to co-terminate the expiration of the new Annual Support Term with expiration of existing Annual Support Term.

(b) Support Services for a Subscription License are included in the time-based License fee ("Subscription Fee"). Liquidware offers Subscription Licenses on a twelve (12) month cycle that begins on the Effective Date (each such twelve (12) month cycle being an "Annual Subscription Term"). At the time of ordering the Licensed Software, Customer may elect to lock-in the price for Subscription Fees by purchasing one or more Annual Subscription Terms. Except where Customer has pre-paid Subscription Fees as described above, on or about forty five (45) days prior to commencement of the next Annual Subscription Term, Customer will be invoiced Liquidware's then current Subscription Fees for the Subscription License for the next Annual Subscription Term. If the invoiced Subscription Fees are not paid on or before commencement of the Annual Subscription Term, then the Subscription License shall lapse. If Customer licenses additional Licensed Software over the course of any Annual Subscription Term, then Liquidware may prorate the renewal Subscription Fees for expiring Subscription Licenses to co-terminate the

expiration of the new Annual Subscription Term with the expiration of the existing Annual Subscription Term.

**3.2 Description of Support Services.** Support Services are described in the then-current Liquidware Customer Support Policy located at [www.liquidwarelabs.com/docs/LWLSupportGuide.pdf](http://www.liquidwarelabs.com/docs/LWLSupportGuide.pdf), which is subject to change at the discretion of Liquidware.

**3.3 Reinstating Support Services.** If Customer lets lapse (a) the Support Services in the case of Perpetual License or (b) the Subscription License in the case of a Subscription License and later desires to reinstate such Support Services or Subscription License, respectively, then Customer may do so by paying to Liquidware all Support Fees or Subscription Fees, respectively, that would have been due during the lapse plus an additional ten percent (10%) of such amount. In addition Customer agrees to install all Error Corrections, Updates and Upgrades necessary to bring Customer's installation of the Licensed Software current with the most recent release.

**3.4 Remote Access.** Liquidware's Support Services may include remote diagnostics. Upon Liquidware's request, Customer will implement the necessary hardware, software and telecommunication services reasonably requested by Liquidware to facilitate remote diagnostics and remote installation of Error Corrections, Updates and Upgrades.

**3.5 Ownership of Deliverables.** Liquidware or its third party suppliers own all rights, title and interest in any deliverables provided from any professional services rendered hereunder ("Services") and any and all enhancements, suggestions, contributions, modifications or additions that are contributed or added thereto by Liquidware, Customer or others (collectively, the "Deliverables"), including but not limited to all worldwide copyrights, trade secrets, trademark, confidential and proprietary rights therein. Deliverables contain proprietary information belonging to Liquidware and its third party suppliers, and that nothing herein gives Customer any right, title or interest in such Deliverables except as otherwise expressly set forth herein. Notwithstanding the foregoing, Liquidware grants Customer a limited License to use the Deliverables for Customer's internal business purposes during the term of the License.

**3.6 Statement of Work.** Services shall be specified in one or more written Statement(s) of Work signed by both Liquidware and Customer.

**3.7 Nonsolicitation.** Neither party will, directly or indirectly, solicit for employment any person employed by the other party for a period with whom they had contact as a result of this Agreement, for a period of time equal to the earlier of (i) one (1) year after said person has ceased to work for such company, or (ii) the term of Services provided under this Agreement plus one (1) year thereafter. Notwithstanding, the foregoing shall not prohibit either party from general employment solicitations not targeting the other party's personnel.

### 4. GENERAL TERMS.

**4.1 Invoicing and Payment.** Customer shall pay those amounts indicated in an Order within twenty-one (21) days after receipt of an invoice from Liquidware. Customer agrees to pay all reasonable travel, living, out-of-pocket, and material expenses incurred by Liquidware associated with Services as specified in a Statement of Work.

**4.2 Taxes.** The amounts set forth in an Order are net amounts exclusive of all sales, use, withholding, excise, value added, and ad valorem taxes incurred by Customer or imposed in the performance of the Agreement or otherwise due as a result of the Agreement. Customer will be responsible for any and all such taxes and charges.

**4.3 Delivery.** Upon acceptance of an Order, Liquidware shall make available via electronic download to Customer the Licensed Software and Documentation ordered. Notwithstanding any provision under a separate Statement of Work which may require Liquidware to perform certain services in the nature of installation of the Licensed Software or configuration of Customer's computers, networks or other systems, delivery shall be deemed complete upon delivery of an access key to Customer allowing Customer to download the Licensed Software. Any delivery dates or period for delivery on an Order are approximate and not a guarantee. Under no circumstances will Liquidware be liable for failure of delivery or delay in delivery, caused in whole or in part by circumstances beyond Liquidware's reasonable control. In such circumstances, Customer is not relieved from accepting delivery and paying the agreed price when the cause interfering with delivery is removed.

**4.4 Installation.** Customer is responsible for installation of the Licensed Software unless otherwise provided in the Order.

**4.5 Warranty Claims.** Customer will initiate all Licensed Software warranty claims by contacting Liquidware's then-current support number. If Liquidware investigates a warranty claim that Liquidware reasonably determines to be caused by operator error, system configuration other than as described in the Documentation, or any other cause not covered by the warranties described in this Agreement, then Liquidware may, in its discretion, charge for Liquidware's services at Liquidware's then-current rates for Liquidware's investigation of the warranty claim.

**4.6 Mutual Representations.** Each party warrants and represents to the other that it has the authority to enter into each Order and this Agreement and that its performance under the Order and this Agreement will not violate any agreement by which either of them is bound.

**4.7 Warranty Disclaimers.** EXCEPT AS SET FORTH IN SECTION IN THIS AGREEMENT, COMPANY MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, ORAL OR WRITTEN, WITH RESPECT TO THE LICENSED SOFTWARE, THE SUPPORT SERVICES AND ANY OTHER SERVICES PROVIDED PURSUANT TO THE AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OR CONDITION (I) OF MERCHANTABILITY, (II) OF SATISFACTORY QUALITY, (III) OF FITNESS FOR A PARTICULAR PURPOSE, (IV) NON-INFRINGEMENT, OR (V) ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

**4.8 Confidentiality.** For purposes of this Section: (i) "Proprietary Information" means Trade Secrets and Confidential Information; (ii) "Trade Secrets" means trade secrets as defined under applicable law; and (iii) "Confidential Information" means information (other than Trade Secrets) that is of value and treated as confidential. The unauthorized use or disclosure of Liquidware's Proprietary Information may cause great harm to Liquidware. Accordingly, Customer will maintain Liquidware's Proprietary Information in confidence and not disclose, display, transmit, or otherwise make available Liquidware's Proprietary Information in whole or in part to any third party, or use Liquidware's Proprietary Information for any purpose whatsoever other than as expressly authorized in the Agreement. With regard to Trade Secrets, the obligations in this Section will continue until such time as the Proprietary Information is no longer a Trade Secret (through no fault by Customer). With regard to Confidential Information, the obligations in this Section will continue for a period of three (3) years after initial disclosure thereof.

**4.9 MAXIMUM LIABILITY.** EXCEPT FOR BREACHES OF CONFIDENTIALITY OR THE INDEMNIFICATION PROVISIONS PROVIDED HEREIN, IN NO EVENT WILL LIQUIDWARE AND ITS SUPPLIERS' AGGREGATE LIABILITY FOR ANY DAMAGES REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE, EVER EXCEED THE AMOUNTS RECEIVED BY LIQUIDWARE UNDER THE ORDER GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH CLAIM.

**4.10 LIMITATION OF REMEDY.** IN NO EVENT WILL LIQUIDWARE AND/OR ITS SUPPLIERS BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, REVENUE, PROFITS, GOODWILL, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH AN ORDER OR RESULTING FROM THE USE OF OR INABILITY TO USE THE LICENSED SOFTWARE, INCLUDING THE FAILURE OF ESSENTIAL PURPOSE, EVEN IF LIQUIDWARE AND/OR ITS SUPPLIERS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF THE DAMAGES OCCURRING, AND WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS

LIABILITY OR OTHERWISE.

**4.11 Export Controls.** The Licensed Software and the underlying information and technology may not be used, exported, re-exported or downloaded in violation of the laws and administrative regulations of the United States or any other applicable jurisdiction. Customer may not distribute the Licensed Software outside the United States without Liquidware's prior written consent and shall comply with all applicable laws and regulations whenever Customer transfers, exports, or re-exports the Licensed Software.

**4.12 Notices.** All notices required to be given hereunder will be given in writing and will be delivered either by hand, by courier with confirmation of receipt, or by certified mail with proper postage affixed thereto addressed to the signatory at the address set forth in the Order, or such other person and address as may be designated from time to time by delivery to the other party of notice of the change in the manner described in this Section. All notices will be deemed received upon the party's receipt of the notice.

**4.13 Counterparts.** The Agreement may be executed in one or more counterparts, each of which will for all purposes be deemed an original and all of which will constitute the same instrument.

**4.14 Assignment.** Neither Customer nor Liquidware may assign an Order, this Agreement or the rights and obligations thereunder to any other person or entity without the prior written consent of the other party; provided, however, either party may assign its rights and obligations under an Order and this Agreement to any entity acquiring all or substantially all of the assets or voting stock of the assigning party.

**4.15 Entire Agreement.** The Agreement sets forth the entire agreement and understanding between Liquidware and Customer with respect to the subject matter thereof and, except as specifically provided herein or in a written addendum, supersedes and merges all prior oral and written agreements, discussions and understandings between Liquidware and Customer with respect to the subject matter hereof, and neither Liquidware nor Customer shall be bound by any conditions, inducements or representations other than as expressly provided for herein. Notwithstanding the foregoing, the Agreement will not supersede the terms of any non-disclosure agreement entered into between Liquidware and Customer unless a written addendum refers to the specific non-disclosure agreement that the Agreement supersedes.

**4.16 Miscellaneous.** Each Order and this Agreement will be binding upon and inure to the benefit of the parties, their legal representatives, permitted transferees, successors, and assigns as permitted by this Agreement. If any provision hereof is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement will be valid and enforceable to the fullest extent permitted by applicable law. This Agreement will be exclusively construed, governed and enforced in all respects in accordance with the internal laws (excluding all conflict of law rules) of the State of Georgia and any applicable federal laws of the United States of America, as from time to time amended and in effect. Each party agrees that any claim or cause of action whether in law or equity, arising under or relating to the Agreement may be brought in a court of appropriate jurisdiction in the State of Georgia. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply in any respect to an Order or the parties thereto.