

## 1 Application

These General Conditions of Service of Vaisala Ltd ("Conditions") shall apply to calibration, repair, field service and other service (hereinafter the "Services") by Vaisala Ltd (hereinafter "Vaisala") of Vaisala hardware and/or software ("Products") and other products provided by Vaisala's customer ("Customer") to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, except to the extent the Services are subject to a separate Agreement (as defined below). By submitting a service request, responding to a Services proposal, placing an order for Services, or otherwise requesting, procuring or accepting any Services from Vaisala ("Order"), Customer acknowledges (a) its complete acceptance of these Conditions and (b) that any terms accompanying Customer's document(s) related to the procurement of Services from Vaisala have no effect and shall not apply. These Conditions may be superseded or amended in writing by a separate agreement agreed upon and executed by both parties ("Agreement"); otherwise the Services shall solely be governed by these Conditions and related documentation for the given sales transaction, which hereby together constitute the full contract ("Contract") between Vaisala and Customer. The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions. The Order shall only be deemed to be accepted when Vaisala issues a written acceptance of the Order, at which point the Contract shall come into existence. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Vaisala which is not set out in the Contract. Any quotation for Services given by Vaisala shall not constitute an offer. Unless otherwise agreed between the parties, a quotation shall only be valid for a period of 30 days from its date of issue.

The Contract is for the provision of Services only. The use of any software provided by Vaisala is subject to a separate contract governed by Vaisala's general conditions of licensed software. Please refer to the General License Conditions of Vaisala Group at: <http://www.vaisala.com/Vaisala%20Documents/Terms/DOC225649EN.pdf>

The sale, supply, and replacement of hardware and/or software is subject to a separate contract governed by Vaisala's General Conditions of Sale. Please refer to: <http://www.vaisala.com/Vaisala%20Documents/Terms/DOC233408.pdf>

The use of any Vaisala Triton products is subject to a separate contract governed by additional conditions regarding Vaisala's Triton Products. Please refer to: <https://www.skyserve.net/Skyservedev2/help/useragreement1.htm>

## 2 Mutual Representations

Each party represents, warrants and covenants that: (a) it has the full right, power, and authority to render the performance and obligations as set forth herein; and (b) the representative whose signature is affixed to this Contract (when applicable) has full capacity and authority to bind that party to the terms hereof.

## 3 Services

### 3.1 Personnel, Parts and Services Required

Upon Customer submitting an Order, and upon Vaisala having confirmed and accepted Customer's Order, Vaisala shall provide the personnel ("Personnel"), parts ("Parts") or Services specified in the Contract. If additional Personnel, Parts, or Services are required, Vaisala will use commercially reasonable efforts to make them available to Customer, at Vaisala's place of business or elsewhere, as mutually agreed between the parties. Such additional Personnel, Parts and Services are provided in accordance with these Conditions and may be at additional cost to Customer. Vaisala shall be entitled to use subcontractors in the performance of its duties.

Vaisala shall use all reasonable endeavours to meet any performance dates specified in the accepted Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

### 3.2 Limitation of the Work

Customer shall not be entitled to use the Personnel for other work or services other than those that have been contracted unless (a) a modification of the original accepted Order is submitted and accepted by Vaisala or (b) Vaisala otherwise agrees at its sole discretion to perform such additional work. For such additional work, these Conditions shall apply.

For the avoidance of doubt, the Personnel provided to the Customer remain employees of Vaisala at all times and the provision of the Personnel does not constitute a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 or otherwise create an employment relationship between the Personnel and the Customer.

### 3.3 Fixed Fees; Basic Day Rates

The fixed fee ("Fixed Fee") for the Services included in the Contract is specified in the accepted Customer Order. For additional Services, Customer is charged on a time and materials basis at the basic day rates as stated in the accepted Customer Order.

In addition to basic day rates, Customer shall compensate Vaisala for expenses incurred by Vaisala or the Personnel in connection with the work to be performed. Additional fees will be charged for the following items (this list includes but is not limited to): Services in respect of repair or damage arising from transportation or relocation of Products not performed by Vaisala; failure of electrical power, air conditioning or humidity control; changes, alterations or additions not performed by Vaisala; or rectification of lost or corrupted data arising from any reason.

For Services not included in the Fixed Fee, Vaisala shall, at Customer's request, provide a price estimate after fault tracing but before undertaking any other work. The estimate shall not be binding, but Vaisala shall inform Customer if it becomes apparent that the final price will exceed the estimate by more than ten per cent (10%). If Customer, after receiving the price estimate or such last mentioned notice, chooses not to proceed, Customer shall nevertheless pay Vaisala for the work Vaisala has performed in accordance with the Contract.

The Fixed Fee does not include Services in respect of Products which, as a result of wear and tear or other reasons can no longer be maintained in good working order. For such items Vaisala will, upon request of Customer, submit a price estimate of the work required.

In the event that Customer does not authorize the work to be carried out, the items concerned may be deleted from the scope of Services by Vaisala by a notice in writing to Customer.

### **3.4 Invoicing and Payment**

The invoice for any Fixed Fee portion of the Services shall be issued within thirty (30) days from Vaisala's acceptance of Customer's Order. In respect of Services not included in the Fixed Fee as well as in respect of traveling and other costs, Vaisala shall issue a monthly invoice for the work performed and costs incurred. The amount of the invoice shall be paid no later than thirty (30) days from the date of the invoice. Invoicing of basic day rates, overtime, allowances etc. shall be based on time reports.

Any undisputed payment outstanding after the due date shall accrue interest at the rate of eight per cent (8%) per annum, on the unpaid undisputed amount. Such interest shall accrue on a daily basis from the date such payment becomes due until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay interest together with the overdue amount. Vaisala is entitled to suspend performance of all Services until any unpaid undisputed amount, including interest, has been paid in full.

### **3.5 Taxes and Duties**

Unless stated otherwise, Vaisala shall be reimbursed for all taxes, duties and other levies charged to Vaisala or its Personnel in the performance of this Contract. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by Vaisala to the Customer, the Customer shall, on receipt of a valid VAT invoice from Vaisala, pay to Vaisala such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

### **3.6 Contract Period; Notice of New Fee**

Unless otherwise agreed, the Contract is concluded for a period of one year and shall be prolonged by one year at a time, unless terminated by notice in writing at least two (2) months before the expiry of the current contract period. Unless the Fixed Fee is to be adjusted according to an index clause, Vaisala may demand an increase of the Fixed Fee, provided that Vaisala informs the Customer in writing of the Fixed Fee for the coming contract period at least three (3) months before the expiry of the current contract period. If such increase is not acceptable to the Customer, it shall notify Vaisala in writing within thirty (30) days of the date of Vaisala's notice and Vaisala shall have the right without limiting its other rights or remedies to terminate the Contract by giving one (1) month's written notice to the Customer.

### **3.7 Notice of Commencement Date – Planned Services**

Unless the time for planned Services is specified in Customer accepted Order, Vaisala shall notify Customer in writing at least one (1) week in advance of the time when the planned Services are estimated to be carried out.

### **3.8 Notice of Commencement Date – Corrective Maintenance**

Unless otherwise agreed, Customer shall notify Vaisala in writing as soon as practicable of the time when the corrective maintenance is requested to be carried out.

Upon the receipt of Customer's request, Vaisala will confirm the availability of resources to perform the work and the time when the Services are estimated to be carried out.

### **3.9 Preparation; Travel**

Unless expressly or otherwise agreed upon, the following shall apply:

- A. *Preparation*: Customer is charged a Fixed Fee for preparation work, such as technical planning and examination of drawings.
- B. *Travel between Vaisala's place of business and Customer's site or premises*: Customer shall bear all reasonable travel costs in connection with site visits. The Personnel shall, as far as possible, travel in economy class.

Reasonable travel costs may include, but are not limited to:

- a) fares for travel by air, rail, ship, bus and taxi, car rental, and mileage compensation for use of private car;
- b) daily food costs;
- c) lodging; and
- d) transport, customs charges and insurance for instruments and tools related directly to the performance of the Services.

Reasonable travel costs shall not include those that are lavish or extravagant under the circumstances.

### **3.10 Working Hours**

Unless otherwise agreed with Customer in the accepted Customer Order, Vaisala's Personnel's work week consists of Monday through Friday, an 8 hour shift from between 06:00 AM and 18:00 PM. In addition to standard public holidays in the country where Services are performed, Vaisala observes the standard UK public holidays.

Work performed outside normal working hours, including on local and/or UK public holidays is considered to be overtime, will be charged to the Customer separately at rates agreed between the parties and must comply with applicable law, including the law in the country where the Services are performed.

### **3.11 Access to Premises; Safety**

Customer shall ensure that Vaisala has access to the Products to be serviced at the agreed or notified time of maintenance or other Services. Customer shall ensure that the site and premises where Personnel performs the work are in a suitable condition for the work in question and that the Services are not carried out in unhealthy or dangerous surroundings. Customer shall take all necessary measures to prevent Personnel from being exposed to any safety or health hazard or risk of injury or damage and shall arrange and pay for any necessary protective equipment. Four (4) weeks before commencement of the work, Customer shall notify Vaisala of all relevant safety regulations in force at the site and premises. Customer shall further ensure that all the necessary safety and precautionary measures have been taken before the work is started and that the Personnel are well informed about the conditions under which the work is carried out and the risks that may be present.

In the event Personnel determine in their sole discretion that the premises are not safe to perform the Services, such Personnel shall notify Customer of the unsafe conditions and may refuse to perform the

Services without penalty or liability to Vaisala until such time that the safety requirements are properly and completely addressed by Customer.

When a special need therefor arises, Customer shall provide Vaisala, free of charge, with assisting personnel as well as necessary tools and equipment, lifting and transport equipment with operators, scaffolding including erection and removal, electric power and wiring, necessary connections, etc. If Customer's personnel shall carry out work under Vaisala's supervision, Customer's personnel must be qualified to perform the work in question. For the avoidance of doubt, Vaisala has no management or other responsibility for any employees other than the employees of Vaisala.

### **3.12 Routine Maintenance; Original Parts**

Customer shall be solely responsible for any necessary routine maintenance, and keep a log of the operation and maintenance activities. Services are in addition to, and not a substitute for, routine maintenance. It is Customer's sole responsibility to strictly follow the routine maintenance instructions provided in the manuals and accompanying labels and/or inserts for each Product. Unless otherwise agreed, Vaisala and Customer shall only use OEM parts or parts of equivalent quality when carrying out maintenance.

## **4 Confidentiality**

Neither party shall disclose, transfer, transmit or otherwise make available to a third party the related documentation for the given Services or any confidential information submitted in connection with the Services provided by Vaisala without the written consent of the other party, unless and to the extent required for the purpose of fulfilling the obligations under this Contract. Either party may disclose such of the other party's confidential information to the extent that such confidential information is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible. No party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract. The obligations of this Section 4 shall survive the expiry and termination of this Contract for a period of three (3) years.

## **5 Intellectual Property Rights**

All trademarks, copyrights, trade names, patents, designs, drawings, technical data, trade secrets, and any other information designated as confidential information of a party shall remain the sole property of that party. Any such rights arising out of or in connection with the performance of any Services under this Contract shall be owned by Vaisala.

## **6 Indemnification and Limitation of Liability**

### **6.1 Intellectual Property Rights Indemnification by Vaisala**

Vaisala shall hold harmless, defend and indemnify Customer, and each of its directors, officers, members,

managers, employees, and agents (collectively, the "Customer Indemnified Parties") from and against any and all damages, losses, liabilities, costs and expenses suffered or incurred by any of the Customer Indemnified Parties in any action, suit, litigation, arbitration or dispute brought by a third party arising or resulting from any claim that Products or Services provided to Customer infringe any copyright, patent, or trademark, constitute a misappropriation of any trade secret, or violate any other intellectual property or proprietary right of any third party. Liability under this indemnity is conditional on the Customer Indemnified Parties discharging the following obligations: (a) the Customer Indemnified Parties shall without delay notify Vaisala in writing about any such action, suit, litigation, arbitration or dispute, and (b) they shall not settle or make any admissions in respect of the same. Vaisala shall be given the option, at its expense, to control the action, suit, litigation, arbitration or dispute, and shall be given all necessary information, authorization and assistance to defend the same.

The foregoing indemnity shall not apply (a) to a claim, damage, loss, liability, cost or expense to the extent attributable to the negligent activities or intentional misconduct of any of Customer Indemnified Parties, (b) where any such infringement, misappropriation, or violation would not have occurred but for Customer's modification of Products (before or after Services are provided by Vaisala) or Customer's combination of Products with any hardware, software or service not provided by Vaisala or (c) to claims by entities belonging to the same group of companies with the Customer or otherwise associated with any of the Customer Indemnified Parties.

### **6.2 General Indemnity**

Each party shall hold harmless, defend and indemnify the other party and its respective directors, officers, members, managers, employees, consultants, contractors, and agents from and against any and all third party claims, demands, suits, actions, or proceedings (and resulting costs, expenses and liabilities), which arise from personal injury, death, or tangible property loss or damage attributed to, or caused by, either party's negligent performance under this Contract. The foregoing indemnity shall not apply to the extent that such injury, death, tangible property loss or damage is caused in whole or in part by the willful misconduct or negligence of the party seeking to be indemnified.

### **6.3 Limitation of Liability**

**NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT OR OTHERWISE TO THE CONTRARY, THE MAXIMUM AGGREGATE LIABILITY OF A PARTY TO THE OTHER PARTY AND TO ALL INDEMNIFIED PARTIES FOR ANY AND ALL DAMAGES, LOSSES, LIABILITIES, COSTS AND EXPENSES ("DAMAGES") ARISING FROM OR RELATED TO THIS CONTRACT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, EXCLUDING INDEMNITY FOR WHICH CUSTOMER INDEMNIFIED PARTIES MAY BE ENTITLED TO PURSUANT TO SECTION 6.1 ABOVE, SHALL NOT EXCEED THE AGGREGATE COMPENSATION PAID OR PAYABLE TO VAISALA UNDER THIS CONTRACT.**

**CUSTOMER'S STATUTORY RIGHTS WHICH CANNOT BE WAIVED OR LIMITED UNDER APPLICABLE LAW ARE NOT AFFECTED BY THIS SECTION 6.**

#### **6.4 No Indirect Damages**

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR DAMAGES WHICH ARE INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY, INCLUDING, WITHOUT LIMITATION, ANY LOSS OF PROFITS OR REVENUE (EXCLUSIVE OF THE FULL PAYMENT FOR SERVICES AND PARTS SOLD PURSUANT TO THE TERMS OF THIS CONTRACT) INCURRED BY EITHER PARTY WHETHER IN AN ACTION BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE. DAMAGES RESULTING FROM ANY LOSS OF DATA SHALL BE DEEMED INDIRECT DAMAGES AND SUBJECT TO THIS SECTION 6.4.**

#### **7 Service Warranty**

Vaisala hereby represents and warrants all Services to be performed in a workmanlike manner, free from material defects and using reasonable care and skill. In the event Vaisala fails to perform Services or provide Parts in accordance with the agreed specifications, Vaisala shall, after receipt of Customer's notice in writing, remedy the deficiency without delay. In the absence of agreed specifications, Vaisala undertakes to re-perform Services and provide Parts in accordance with Vaisala's specifications and established quality requirements for the Services or Parts in question.

The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

Unless otherwise agreed, Vaisala's liability under this Section shall only apply to defects which appear within a period of six (6) months after the Service was performed, and Vaisala's liability for Parts shall only apply to defects which become apparent within twelve (12) months after Vaisala installed the Part in question.

#### **8 Export Control and Compliance**

(a) The subject technology of this Contract, including all Services provided hereunder, may be controlled for export purposes under the Export Administration Act of 1979 (50 USC 2401-2410), the Export Administration Regulations promulgated thereunder (15 CFR 768-799), the International Traffic in Arms Regulations (22 CFR 120-128 and 130), and the Foreign Corrupt Practices Act and their successor and supplemental laws and regulations (collectively the "Export Regulations"). Customer represents that neither Customer nor any of its directors, officers, members, managers or employees, or any person or entity known to Customer to be directly involved in this transaction as freight forwarder, consignee, end-user, consultant, agent or otherwise is designated on any of the U.S. government restricted parties lists, including without limitation the U.S. Commerce Department Bureau of Industry and

Security Denied Persons List, Entity List or Unverified List, the U.S. Treasury Department Office of Foreign Asset Controls Specially Designated National and Blocked Persons List or the U.S. State Department Directorate of Defense Trade Controls Debarred Parties List or restricted parties lists of any country having jurisdiction over Customer or the transaction involving the Services that are the subject of this Contract or related technology.

Customer acknowledges that (1) these Export Regulations impose restrictions on the import, export, and transfer of certain categories data, articles and services to third countries and non-U.S. residents (including foreign persons working legally in the United States), and (2) licenses from the US Department of State and/or the US Department of Commerce may be required before such data, articles and/or related services can be exported, and (3) such licenses may impose further restrictions on use and further disclosure of such data and articles. Customer agrees to comply with all U.S. Governmental regulations as they relate to the import, export and re-export of the subject technology hereof. Customer also agrees to comply with all UK rules and regulations relating to the import, export, re-export and use of the subject technology hereof.

Customer shall have full responsibility for obtaining any export and import licenses and other authorizations required to export, import and use the Products. Vaisala shall not be obliged to commence performance of the Contract until all necessary export and import licenses and authorizations have been obtained.

(b) Customer shall hold harmless, defend and indemnify Vaisala and its respective directors, officers, members, managers, employees, consultants, contractors, and agents from and against any and all claims, demands, suits, actions, or proceedings (and resulting costs, expenses, penalties, fines and liabilities), arising out of claims, suit, allegations or charges of Customer's failure to comply with the provisions of this Section 8 and breach of the warranty set forth in paragraph (a) above; provided, however, that in the event Customer requests the export classification of the relevant Product(s) or Services from Vaisala and Vaisala fails to provide the correct export classification, then the preceding indemnification provision shall not apply. Any failure of Customer to comply with the requirements or any breach of the representations contained in this Section 8 shall be a material breach of this Contract.

#### **9 General**

##### **9.1 Force Majeure**

Neither party shall be liable for delay in delivery or other failure to duly fulfil its obligations due to a Force Majeure event. Such Force Majeure events include, but are not limited to: a strike or other industrial or labor dispute, fire, flood, sandstorm, natural catastrophe, act of God, riot, war, general mobilization, import, export, currency restriction or embargo, circumstance caused by reasons of law, regulations or acts (or failures to act) of any government or other competent authority, traffic, port or airport congestion, delay or accident during transportation, power failure, failure of telecommunications, acts of terror, widespread life-threatening disease, shortage of labor, materials, power, fuel or means of transportation or other similar events,

whether affecting either party or any of its suppliers or subcontractors, or any other cause or circumstance beyond either party's reasonable control.

The party affected by a Force Majeure event shall notify the other party in writing as soon as commercially reasonable. Each party shall be entitled to terminate the Contract by notice in writing to the other party if performance of the Contract is suspended under this Section 9.1 for more than six (6) consecutive months.

When Services are being requested or performed in high-risk countries or areas, as solely determined by Vaisala, Vaisala reserves the right to suspend or terminate performance of Services in the event Vaisala determines that the security of its personnel or property (or those of Vaisala's subcontractors) cannot be reasonably established or maintained.

### **9.2 Assignment**

Neither party shall be permitted to assign or transfer, in whole or in part, this Contract, or any rights or obligations hereunder, except with the written authorization of the other party. Such authorization shall not be unreasonably withheld. Any attempted assignment in violation of this Section 9.2 shall be null and void.

### **9.3 Non-Waiver**

Failure to enforce any right under this Contract will not be deemed a waiver of future enforcement of that or any other right.

### **9.4 Severability**

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Section 9.4 shall not affect the validity and enforceability of the rest of the Contract.

### **9.5 Third Party Rights**

Except as expressly provided elsewhere in these Conditions, a person who is not a party to this Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

### **9.6 Nature of Weather Forecasting and Assessment**

In the event that Customer is purchasing weather forecasting and/or assessment data services, the parties acknowledge that weather forecasting and assessment is an inexact science and that the forecasts and assessments provided under this Contract may contain errors. The use or application of any content or data contained in or provided by Services shall be the sole responsibility of the receiver of such Services, who shall assume all liabilities and obligations with respect to any use or application of such Services.

### **9.7 Termination**

In the event that either party files for bankruptcy, makes arrangements with creditors due to financial difficulties, goes into voluntary or compulsory liquidation other than for the purpose of reconstruction, or has a receiver appointed, the other party may, without prejudice to any other rights or remedies, terminate this Contract with immediate effect by written notice.

In the event that either party materially breaches this Contract and fails to cure the breach within thirty (30) days after being notified, the non-breaching party may terminate this Contract.

In any event of termination, Vaisala shall be entitled to payment for Services and Parts already provided and work in progress.

Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

Sections of these Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

### **9.8 Governing Law and Dispute Resolution**

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by the laws of England and Wales, without regard to its conflict of laws rules. It is expressly agreed that the application of United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

The parties shall first try to resolve any dispute relating to or arising from this Contract through good faith negotiations. If the parties are unable to resolve the dispute through negotiations, the dispute shall be submitted to, and settled by, binding arbitration by a single arbitrator in accordance with the London Chamber of International Arbitration ("LCIA") Rules. The number of arbitrators shall be one, to be agreed upon by the parties. If they are unable to so agree within fourteen (14) days of the date of the request that the dispute be referred to arbitration, the arbitrator shall be selected and appointed by the LCIA Court. The place of arbitration shall be London, England, and the language of the arbitration shall be English. The parties agree that the decision of the arbitrator shall be final and binding. This Section 9.8 is without prejudice to either party's right to seek interim relief against the other party (such as an injunction) through the English courts to protect its rights and interests. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator.