

1 Application

These General Conditions of Sale of Vaisala Pty. Ltd. ("Conditions") shall apply to the sale, supply, and replacement of hardware and/or software ("Products") by Vaisala Pty. Ltd. (hereinafter "Vaisala") to Vaisala's customer ("Customer") except to the extent the sale, supply, and replacement of Products is subject to a separate Agreement (as defined below). By submitting a purchase order, request for offer or any other document to purchase Products against a Vaisala quotation or other Vaisala document referencing these Conditions, Customer acknowledges: (a) its complete acceptance of these Conditions; and (b) that any terms accompanying Customer's document(s) related to the sales transaction 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 These Conditions may be superseded or amended in writing by a separate agreement agreed upon and executed by both parties ("Agreement"); otherwise the sale, supply, and replacement of Products 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 Customer acknowledges and agrees that it has relied upon its own investigations and enquiries and Vaisala assumes no obligation or duty of care in relation to any information supplied by Vaisala before or after the date of this Contract (including the accuracy, completeness or adequacy of the information for the purposes of the Contract). Unless Vaisala expressly agrees otherwise in writing, any information supplied by Vaisala in connection with the Products before or after the date of this Contract has been provided only for the Customer's convenience and has not been and will not be relied on by the Customer for any purpose (including entering into this Contract).

For general conditions of licensed software, refer to the General License Conditions of Vaisala Group at: <http://www.vaisala.com/Vaisala%20Documents/Terms/DOC225649EN.pdf>

For General Conditions of Service, refer to: <http://www.vaisala.com/Vaisala%20Documents/Terms/DOC233431.pdf>

For additional conditions regarding Vaisala's Triton products, 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 Prices, Payment, Delivery and Retention of Title

3.1 Prices

The quoted prices are exclusive of GST and all taxes, duties and charges of any kind, which shall be added to the purchase price in accordance with applicable law or paid directly by Customer to appropriate authorities, as the case may be.

For the purpose of this Contract, "GST" means the tax payable on a taxable supply under *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

3.2 Payment

Upon Vaisala's acceptance of Customer's credit application, payment terms shall be net 30 days from the date of invoice ("Due Date"), unless payment is to be made to Vaisala by a confirmed irrevocable documentary credit. Any payment outstanding after the Due Date shall accrue interest at the rate of twelve percent (12%) per annum on the unpaid amount from the date such payment becomes due. On and from the calendar day immediately following the Due Date, Vaisala is entitled to suspend all deliveries to Customer until any unpaid amount, including interest, has been paid in full.

To the extent that the SOP Act applies to this Contract, the parties agree that the Due Date shall be the "reference date" as defined in, and for the purpose of, the SOP Act. SOP Act means the *Building and Construction Industry Security of Payment Act 2002* (Vic), as amended from time to time (or equivalent legislation in other States or Territories of Australia, as applicable).

3.3 Delivery

The terms of delivery are defined in accordance with INCOTERMS 2010. Products shall be delivered FCA (Vaisala facility) (INCOTERMS 2010) unless otherwise expressly agreed in writing or as noted on Vaisala's quotation or acknowledgement of order.

Any delivery and availability dates are estimates only. Vaisala will endeavor to meet these estimates but will not be liable for any delays in meeting estimated delivery dates.

Customer will be deemed to have accepted the Products unless Vaisala has received a substantiated written claim as to any alleged nonconformity or delayed delivery of the Products within fourteen (14) days from the date of receipt of the Products by the Customer.

3.4 Retention of Title

Vaisala shall retain title to Products until Vaisala's receipt of full payment, including possible interest on overdue payment.

Until full payment for Products has been received or unless prior written authorization has been given by Vaisala, Customer (a) shall take all measures necessary to store and protect such Products, including labeling such Products as being owned by Vaisala, shall inform Vaisala of such measures, and shall grant Vaisala access to the premises where Products are stored for inspection and removal purposes at Customer's risk and expense, and (b) undertakes not to process, incorporate, give as security or resell Products.

3.5 Personal Property Securities Act 2009 (Cth) ("PPSA")

A word or expression used in this Section which is defined in the PPSA has the same meaning in this clause, unless the context otherwise requires.

The Customer grants Vaisala a security interest in all Products (and proceeds thereof) supplied by Vaisala as a security for all indebtedness whatsoever owed by the Customer to Vaisala. The Customer agrees, to the extent permitted by law: (a) to promptly give Vaisala all assistance and information (including signing any

documents) as Vaisala requests to ensure that Vaisala has a perfected first ranking security interest in all Products (and the proceeds thereof) supplied by Vaisala; (b) that Vaisala may register for a financing statement on the Personal Property Securities Register against the Customer; (c) that notices or documents required or permitted to be given to Vaisala under the PPSA may be given in accordance with the PPSA; (d) not to change its name without providing at least 10 calendar days written notice to Vaisala of the Customer's intention to do so; (e) that it waives its right to receive any verification statement (or notice of any verification statement) in respect of any financing statement or financing change statement relating to any security interest created under this document; and (f) that the parties contract out of the Customer's rights, and the Customer waives its rights, under sections 95, 118, 121, 125, 130, 132, 135, 142 and 143 of the PPSA.

Subject to the provisions of the PPSA, the Customer and Vaisala agree that the Customer and Vaisala will not disclose any of the information set out in section 275(1) of the PPSA in relation to this document to any person.

4 Confidentiality

Neither party shall disclose, transfer, transmit or otherwise make available to a third party documentation related to the given sales transaction or any confidential information submitted in connection with the sale, supply or replacement of Products 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.

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 Customer Indemnified Parties in any action, suit, litigation, arbitration or

dispute brought by a third party arising or resulting from any claim that Products 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. The Customer Indemnified Parties shall without delay notify Vaisala in writing about any such action, suit, litigation, arbitration or dispute, and 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 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, the indemnifying party's negligent performance under this Contract or by Products supplied by Vaisala (including latent defects in such Products). 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 gross negligence of the party seeking to be indemnified.

6.3 Limitation of Liability

NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT OR OTHERWISE TO THE CONTRARY, TO THE EXTENT PERMITTED BY LAW, 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 (INCLUDING INDEMNITIES), TORT (INCLUDING NEGLIGENCE), STATUTE 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.

6.4 No Indirect Damages

NOTWITHSTANDING ANY PROVISION IN THIS CONTRACT OR OTHERWISE TO THE CONTRARY, TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE TO

THE OTHER PARTY FOR CONSEQUENTIAL LOSS, WHETHER IN AN ACTION BASED ON CONTRACT (INCLUDING INDEMNITIES), TORT (INCLUDING NEGLIGENCE), STATUTE OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER FORESEEABLE OR UNFORSEEABLE.

6.5 Definitions

In this Contract, unless the context otherwise requires:

- (a) "Consequential loss" means any:
- i. loss of profit, loss of revenue, loss of production, loss of financial opportunity, loss of goodwill, loss of business reputation, damage to credit rating, direct or indirect financing costs, whether or not in the reasonable contemplation of the parties at the time of entering into this Contract;
 - ii. loss or damage arising out of or in connection with any loss of data; or
 - iii. loss or damage which is indirect, incidental, consequential, punitive special or exemplary,
- but does not include Vaisala's entitlement to full payment for Products sold pursuant to this Contract.
- (b) "Gross negligence" means an act or omission amounting to a reckless disregard for and creation of a serious risk to the other party.
- (c) "Wilful misconduct" means a deliberate and purposeful act or omission carried out, or real and substantial evidence of a deliberate and purposeful act or omission carried out, with a reckless disregard or calculated regard, for the consequences of the act or omission, but does not include any error of judgment, mistake, act or omission (whether negligent or not) which is made in good faith.

7 Warranty

Vaisala hereby represents and warrants all Products to be free from defects in workmanship and material during a period of twelve (12) months from the date of delivery; however, extended warranties of longer duration are available for those specific Products set forth on Vaisala's website at <http://www.vaisala.com/en/contact/Pages/warranty.aspx>. Lists of Products with longer warranties may be amended or adjusted from time to time by Vaisala.

If any Product proves to be nonconforming in workmanship or material within the period(s) herein provided, Vaisala undertakes, to the exclusion of any other remedy (to the extent permitted by law), to repair or at its option replace the nonconforming Product or part thereof free of charge. Products so repaired or replaced shall have a six (6) months warranty period from the date of delivery and otherwise on the same conditions as for the original Product or part thereof, unless the original warranty period extends beyond the six (6) months warranty period, in which case the original warranty period applies. Vaisala shall have the option to repair the Product at a Vaisala facility of its choosing or on site. Nonconforming Products replaced

in accordance with this Section shall be placed in Vaisala's possession for disposal.

This warranty is subject to the following conditions:

- a) a substantiated written claim as to any alleged nonconformity shall have been received by Vaisala within thirty (30) days after the nonconformity occurred or became known; and
- b) the allegedly nonconforming Product or part thereof shall be sent to the appropriate Vaisala facility or to such other place as Vaisala may indicate in writing, properly packed and labeled by Customer, unless Vaisala has agreed to inspect and repair or replace the Product on site; and
- c) the Product is within the warranty period.

Freight and insurance shall be at Vaisala's expense subject to Customer following the return material authorization procedures set by Vaisala for the return of the nonconforming Products, as set forth on Vaisala's website.

This warranty does not apply when the nonconformity has been caused through:

- a) Normal wear and tear;
- b) Accident, theft or vandalism;
- c) Forces of nature;
- d) Misuse or other unsuitable or unauthorized use of the Product or negligence or error in storing, maintaining or handling the Product;
- e) Erroneous installation or assembly or failure to service the Product or otherwise follow Vaisala's service instructions, including any repair, installation, assembly or service made by personnel not approved by Vaisala or replacements with parts not manufactured or supplied by Vaisala;
- f) Modifications or changes to the Product as well as any adding to it without Vaisala's prior authorization; or
- g) Other factors depending on Customer or a third party.

Notwithstanding the aforesaid, Vaisala's liability under this warranty shall not apply to any nonconformities arising out of materials, designs or instructions provided by Customer.

THIS WARRANTY IS EXPRESSLY IN LIEU OF AND EXCLUDES ALL OTHER CONDITIONS, WARRANTIES AND LIABILITIES, EXPRESS OR IMPLIED, WHETHER UNDER LAW, STATUTE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER OBLIGATIONS AND LIABILITIES OF VAISALA OR ITS REPRESENTATIVES WITH RESPECT TO ANY DEFECT OR DEFICIENCY APPLICABLE TO OR RESULTING DIRECTLY OR INDIRECTLY FROM PRODUCTS, WHICH OBLIGATIONS AND LIABILITIES ARE HEREBY EXPRESSLY CANCELED, WAIVED AND DISCLAIMED. VAISALA'S LIABILITY UNDER THIS WARRANTY SHALL UNDER NO CIRCUMSTANCES EXCEED THE INVOICE PRICE OF ANY PRODUCT FOR WHICH A WARRANTY CLAIM IS MADE, NOR SHALL VAISALA IN ANY CIRCUMSTANCES BE LIABLE

FOR CONSEQUENTIAL LOSS (AS DEFINED IN SECTION 6.5 ABOVE).**8 Export Control and Compliance****8.1 Export Control**

(a) The subject technology of this Contract, including all data and articles 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 Products that are the subject of this Contract or related technology.

Customer acknowledges that: (1) 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 the 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, re-export and use of the subject technology hereof. Customer also agrees to comply with all Australian 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 this 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 8.1 and breach of the representation set forth in paragraph (a) above; provided, however, that in the event Customer requests the export classification of the relevant Product(s) 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 8.1 shall be a material breach of this Contract.

8.2 Compliance

The Customer shall have full responsibility for compliance with the requirements of all laws, relevant statutory requirements and the requirements of all manuals, technical standards and codes relevant to the Products. The Customer shall obtain all approvals, licenses and permits applicable to the Products at its own cost and shall, on request, supply copies of such approvals, licenses or permits to Vaisala.

The Customer shall have full responsibility for compliance with common law and statutory obligations relating to health, safety and environmental matters. Any incident involving a significant injury arising in connection with a Product shall be reported promptly to Vaisala in writing.

9 General**9.1 Force Majeure**

Neither party shall be liable for delay in delivery or other failure to duly fulfil its obligations (other than an obligation to make payment) 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, or any other 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 federal, state or local government 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 the affected 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 this Contract by notice in writing to the other party if performance of this Contract is suspended under this Section 9.1 for more than six (6) consecutive months.

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, and with regard to Vaisala, except as assigned or transferred to a Vaisala Group Company. 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 Nature of Weather Forecasting and Assessment

In the event that Customer is purchasing weather forecasting and/or assessment data, 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 Products shall be the sole responsibility of the users of Products, who shall assume all liabilities and obligations with respect to any use or application of such Products.

9.5 Electrical Waste Disposal

Customer shall be responsible for collection and proper disposal of all waste electrical and electronic equipment (WEEE) and packaging material arising or deriving from Products.

9.6 Product Loan

Vaisala may, at its discretion, supply Products to Customer on loan for an agreed period of time for evaluation and other agreed purposes. All Product loans shall be subject to these Conditions. Such Products will remain at all times Vaisala's property, and Customer shall indemnify Vaisala against any loss or damage to the Products whilst in Customer care and custody in accordance with Section 6.2.

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 Products already delivered and work in progress.

9.8 Governing Law and Dispute Resolution

This Contract shall be governed by the laws of the State of Victoria, Australia, 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 matter through negotiations, any dispute, controversy or claim arising out of, relating to or in connection with this Contract, including any question regarding its existence, validity or termination, shall be resolved by a single arbitrator in accordance with the ACICA Arbitration Rules. The place of arbitration shall be Melbourne, Australia, and the language of the arbitration shall be English. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. The courts of Victoria have non-exclusive jurisdiction in respect of this Contract.