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## **1 Application**

### **1.1 General Application**

These General Conditions of Information Services ("Conditions") shall apply to the provision and licensing of Vaisala information products, data products, and related services ("Information Services") by Vaisala Ltd (hereinafter "Vaisala") to 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 that the provision of Information Services is subject to a separate Agreement (as defined below). By submitting a purchase order, submitting an Information Services request, responding to an Information Services proposal, placing an order for Information Services, or otherwise requesting, procuring or accepting any Information 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 Information 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 These Conditions may be superseded or amended in writing by a separate agreement agreed upon and executed by both parties ("Agreement"); otherwise the Information Services shall solely be governed by these Conditions and related documentation for the given transaction, which hereby together constitute the full contract ("Contract") between Vaisala and Customer. The Order constitutes an offer by the Customer to purchase Information Services in accordance with these Conditions. The Order shall only be deemed to be accepted when Vaisala, at its sole discretion, decides to issue a written acceptance of the Order in the form of acknowledgement of 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 Information 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.

For General Conditions of Sale, General Conditions of Service, General Project Delivery Conditions and General License Conditions, as applicable, refer to:

<http://www.vaisala.com/en/contact/Pages/conditionsofsale.aspx>

### **1.2 End Users**

As part of the Information Services provided by Vaisala, Customer may receive one or more identifications and passwords. Customer assumes sole responsibility for compliance with this Contract of all uses associated with each and every user identification and password issued and for maintaining the security respecting the user identifications and passwords issued.

## **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 License Grant and Information Terms**

### **3.1 License Grant**

Vaisala hereby grants Customer a limited, nonexclusive license to use the data and related information provided by Vaisala during the term of the Contract ("Information") for any internal business purpose. Customer shall not license, sublicense, copy, assign, lease, rent, loan, sell, resell, republish, re-broadcast, upload, post, transfer or distribute to any third party or otherwise commercially exploit all or any portion of the Information. Customer shall not decompile, disassemble, or reverse engineer the Information or its associated software.

### **3.2 Prohibited Use**

Information is not intended for primary navigation of a vehicle, vessel or aircraft, and the Customer acknowledges and hereby agrees that the Information will not be used for this purpose.

### **3.3 Information Availability**

Customer acknowledges that the Information may be interrupted, or the integrity of the Information affected, by local conditions such as blockage by trees and buildings or radio interference. Vaisala shall not be liable for any degradation of the Information due to local conditions. Vaisala reserves the right to make technical modifications to its networks. To the extent that any such modifications may temporarily degrade the integrity of Information, then Vaisala shall, when practicable, provide prior notice of any such modifications to Customer.

### **3.4 Information Backup**

Unless otherwise agreed by Vaisala and Customer, Customer shall be responsible for any necessary back-up and version control and the preproduction of Information.

### **3.5 Forecasting and Assessment**

If applicable, the Parties acknowledge that weather forecasting and assessment is an inexact science and that any Information related to forecast or assessment may contain errors. The use or application of any Information shall be the sole responsibility of the users of the Information, who shall assume all liabilities and obligations with respect to any use or application of such Information. Customer acknowledges that Vaisala does not assume any risk in connection with the business of the Customer.

## **4 Prices and Payment**

### **4.1 Prices**

The quoted prices are exclusive of all taxes, duties and charges of any kind, including value added tax ("VAT"), 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. 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 Information Services.

### **4.2 Payment**

Upon Vaisala's acceptance of Customer's credit application, payment terms shall be net 30 days from the date of invoice, 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 eight percent (8%) per annum on

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the unpaid 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 the interest together with the overdue amount. Vaisala is entitled to suspend all deliveries to Customer until any unpaid amount, including interest, has been paid in full.

## **5 Term and Termination**

### **5.1 Contract Period and Pricing of Renewal Periods**

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 then current Contract period. Unless the price for the Information Services is to be adjusted according to an index clause as set forth in the Contract, Vaisala may demand an increase of the price for renewal periods, provided that Vaisala informs the Customer in writing of the revised price for the renewal period at least three (3) months before the expiry of the then current Contract period.

### **5.2 Termination**

Vaisala may terminate this Contract with immediate effect and without notice if Customer fails to pay any sum due under this Contract. Either party may terminate this Contract if it notifies the other party of such other party's material breach of its obligations under this Contract and such breach is not cured within thirty (30) days from the date of notice.

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.

## **6 Intellectual Property Rights**

### **6.1 Creative Works**

Subject to (i) the license and related rights granted hereby and (ii) Customer's ownership rights to its data as set forth below, all rights, title and interest, including all Intellectual Property Rights, in and to any and all data, tables, reports or other works of authorship, whether or not patentable, copyrightable or otherwise legally protectable, that are created or developed by Vaisala in connection with the Information (collectively the "Creative Work") shall vest in Vaisala. However, Customer shall retain the right, title and interest to any data produced by Customer and supplied to Vaisala for the purposes of Vaisala providing Information Services to Customer. To the extent applicable, Customer hereby grants to Vaisala a limited, nonexclusive license to use the data and related information provided by Customer to Vaisala during the term of the Contract. Creative Work shall not be considered a work made for hire for copyright or any other purposes. All rights not expressly granted by the Contract are reserved by Vaisala. Customer understands and agrees that the rights granted hereby are limited to the Information identified in the Contract, and that Vaisala has other products and services, and that this Contract does not provide Customer with any rights in such other products or services of Vaisala. Customer will comply with all applicable laws, rules and regulations with respect to Customer's use of the Information and Creative Works

and the performance of Customer's obligations hereunder.

### **6.2 Intellectual Property Rights**

Subject to the license granted in Section 3.1 and the terms of Section 6.1 above, 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.

## **7 Indemnification and Limitation of Liability**

### **7.1 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 Information provided to Customer or Creative Works 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 (a "Claim"). 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 (ii) 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 to (a) 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 Information provided to Customer or the Creative Works or Customer's combination of Information or Creative Works with any hardware, software or service not provided by Vaisala or (c) Claims by entities belonging to the same group of companies with the Customer or otherwise associated with any of the Customer Indemnified Parties.

If Information or a Creative Work becomes the subject of a Claim against a Customer Indemnified Party, then Vaisala shall also do, at its own expense and option, at least one of the following: (i) procure for Customer the right to continue to use the Information or Creative Work at no additional cost to Customer for such right, (ii) replace the Information or Creative Work with a non-infringing product while maintaining the essential specifications of the Information or Creative Work, (iii) modify the Information or Creative Work so that it becomes non-infringing while maintaining the essential specifications of the Information or Creative Work, and/or (iv) refund to Customer a pro-rated portion of the applicable price paid to Vaisala for the Information or Creative Work, in which case Customer will cease all use of the Information or Creative Work.

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The foregoing states Vaisala's entire liability and Customer's sole and exclusive remedies with respect to any infringement or misappropriation of any intellectual property rights of any third party.

### **7.2 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 or by Information supplied by Vaisala (including latent defects in such Information) through the term of the Contract and for a period of two (2) years following the expiry or termination of the 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.

### **7.3 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 7.1 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 7.**

### **7.4 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 INFORMATION PROVIDED 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 SHALL BE SUBJECT TO THIS SECTION 7.4.**

## **8 Disclaimer of Warranties**

**TO THE FULLEST EXTENT PERMITTED BY LAW, VAISALA HEREBY EXPRESSLY CANCELS, WAIVES AND DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE INFORMATION AND ANY CREATIVE WORKS DELIVERED HEREUNDER, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY, THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS OR USEFULNESS OF THE INFORMATION, AND THE WARRANTY THAT THE INFORMATION WILL BE UNINTERRUPTED, ERROR FREE OR WITHOUT DELAY. IN PARTICULAR, ANY TERMS IMPLIED BY SECTIONS 13 TO 15 OF THE SALE OF GOODS ACT 1979 AND 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. USE OF THE INFORMATION IS AT THE SOLE RISK OF THE CUSTOMER.**

## **9 Export Control and Compliance**

(a) The Information 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 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 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

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required to export, import and use the Information. 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 9 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 Information 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 9 shall be a material breach of this Contract.

## **10 General**

### **10.1 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 or supply of Information Services 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 10.1 shall survive the expiry and termination of this Contract for a period of three (3) years.

### **10.2 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. Force Majeure events are events beyond the control of both parties and 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 (including satellites or ground stations), 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.

### **10.3 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 10.3 shall be null and void.

### **10.4 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.

### **10.5 Independent Parties**

None of the provisions of this Contract will be deemed to constitute a partnership, joint venture, or any other such relationship between the parties, and no party will have any authority to bind the other in such manner as a result of any provision of this Contract. No party will have or hold itself out as having any right, authority or agency to act on behalf of the other party in any capacity or in any manner as a result of this Contract, except as may be specifically authorized in this Contract.

### **10.6 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 10.6 shall not affect the validity and enforceability of the rest of the Contract.

### **10.7 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.

### **10.8 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 10.8 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.