

# Integrated Microwave Technology Limited (trading as "Vislink") standard conditions of sale

## 1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Contract: the following terms shall have the following meanings unless the context otherwise requires: Breach of Duty: means the breach of any (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty); Business Day: any day other than (i) a Saturday, (ii) a Sunday or (iii) a day when the clearing banks in London are not physically open for business in the City of London; Contract: means these Terms and Conditions, together with: (a) the relevant Order Acknowledgement (if any); or (b) (if no Order Acknowledgement) the terms of the relevant Order (except to the extent that the terms of the Order deviate from the Quotation (if any) or from the Long Term Agreement (if any), and are not agreed in writing by Vislink); Customer: the customer of Vislink whose details may be more particularly set out in the Order, Order Acknowledgement or Long Term Agreement; Event of Force Majeure: has the meaning given to it in Clause 19.1; Fee: the fee payable by Customer to Vislink for the supply by Vislink of the Products, as stipulated in this Contract or Long Term Agreement (or if no such fee is agreed in writing or specified by Vislink, then this shall be the fee listed in Vislink's published price list current at the date of the Order); Liability: means liability in or for breach of contract, Breach of Duty, misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Contract, including liability expressly provided for under this Contract or arising by reason of the invalidity or unenforceability of any term of this Contract (and for the purposes of this definition, all references to this "Contract" shall be deemed to include any collateral contract); Long Term Agreement: any written agreement between the Parties governing the long-term relationship concerning the supply of Products by Vislink to Customer in accordance with these Terms and Conditions; Order: the written request by Customer to Vislink for the provision of particular Products, which shall be in accordance with the terms of any particular Quotation or Long Term Agreement; Order Acknowledgement: the written document or written communication (if any) which Vislink dispatches to Customer (in response to Vislink's receipt of an Order), which may contain (together with any applicable Long Term Agreement) the particular details of any provision of particular Products and which shall reflect the commercial terms of the Quotation (if any) or Long Term Agreement (if any); Party: either Vislink or Customer; Payment: has the meaning given to it in Clause 4.1; Products: any of Vislink's products provided or to be provided by Vislink to Customer pursuant to this Contract, as more particularly identified in this Contract or Long Term Agreement; Quotation: the written quotation (if any) from Vislink to Customer detailing the number and quantity and type of Products that Vislink is willing in principle to supply to Customer for a particular order; Third Party Component: a part of the Product which was supplied to Vislink by a third party and not manufactured by Vislink; Vislink: Integrated Microwave Technology Limited (trading as "Vislink"), a company registered in England under number 10523708 whose registered office is at Waterside House, Earls Colne Business Park, Colchester, Essex CO6 2NS;
- 1.2. references to "Clauses" are to clauses of these Terms and Conditions;
- 1.3. headings are inserted for convenience only and shall not affect the interpretation or construction of this Contract;

- 1.4. words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral and references to persons shall include an individual, company, corporation, firm or partnership;
- 1.5. references to "includes" or "including" or like words or expressions shall mean without limitation;
- 1.6. references to any statute or statutory provision shall include any subordinate legislation made under it, any provision which it has modified or re-enacted (whether with or without modification) and any provision which subsequently supersedes it or re-enacts it (whether with or without modification); and
- 1.7. references to "written" or in "writing" (except in respect of sending a notice in accordance with Clause 20) includes in electronic form; and
- 1.8. reference to a party includes its personal representatives, successors or permitted assigns.

## 2. CONTRACT

- 2.1. The terms of this Contract apply to the exclusion of any terms and conditions submitted, proposed or stipulated by Customer. These Terms and Conditions apply to Vislink's supply of all Products. The giving by Customer of any delivery instruction or the acceptance by Customer of delivery or collection of the Products shall constitute unqualified acceptance by Customer of these Terms and Conditions.
- 2.2. Save as expressly provided herein, this Contract (together with any documents referred to in it) shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the Parties hereto preceding the date of this Contract and in any way relating to the subject matter of this Contract and to the exclusion of any representations not expressly stated herein save for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. Each Party acknowledges that it has not entered into this Contract based on any representation that is not expressly incorporated into this Contract.
- 2.3. This Contract (together with any documents referred to in it) constitutes the whole agreement and understanding of the Parties as to the subject matter hereof and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to herein.
- 2.4. Subject to Clause 2.2, all materials and other particulars furnished by Vislink prior to the Quotation or Order Acknowledgement or Long Term Agreement, or in Vislink's sales or marketing materials or other documents (including its catalogues, trade literature, brochures, quotations, price lists or website) or made orally by Vislink, are given for general information purposes only and Customer acknowledges that it is not entering into this Contract in reliance upon any such materials or other particular (except to the extent that such materials or particulars form part of this Contract); the Products may also look different to their representation in any such materials or particulars.
- 2.5. Except as expressly provided otherwise in this Contract, no change to this Contract shall be binding unless it is agreed in writing by each of Vislink and Customer and in any format described as being required in the Quotation or Long Term Agreement.
- 2.6. In the event of any conflict between the provisions of these Terms and Conditions and the rest of this Contract or any Long Term Agreement, then the following order of precedence shall apply:
- 2.6.1. the Long Term Agreement prevails over an Order, Order Acknowledgement and these Terms and Conditions;
- 2.6.2. any Order Acknowledgement prevails over the Order; and
- 2.6.3. the Order prevails over these Terms and Conditions.

- 2.7. The Order shall contain:
- 2.7.1. a reference to the Product(s) already described by Vislink (in the Quotation or Long Term Agreement);
  - 2.7.2. the quantity of that Product(s) ordered with Vislink;
  - 2.7.3. the identity of Customer; and
  - 2.7.4. the price for that Product(s) ordered to reflect the price already given by Vislink in the relevant Quotation or Long Term Agreement or otherwise agreed in writing by Vislink.
- 2.8. Except for the information in an Order described in Clause 2.7, if Customer provides Vislink with an Order, purchase order, specification or other document for the Products, such document shall be purely for Customer's administrative purposes only and shall not form part of this Contract.
- 2.9. Customer shall ensure that the Order is on the same terms as any Quotation and Long Term Agreement and is made in accordance with the terms of the, Quotation or Long Term Agreement (except to the extent that Vislink has agreed in writing to the contrary). If the Parties agree that Vislink will proceed to provide the Products, then such provision shall be only on the understanding that any differences in the Order from the, Quotation, Order Acknowledgement or Long Term Agreement shall have no effect unless the Parties expressly agree in writing.
- 2.10. It is Customer's responsibility to ensure that the Quotation, Order and Order Acknowledgement are complete and accurate and to point out to Vislink in writing anything which is incomplete or inaccurate. Customer shall ensure that the specification for the Products contained in the Quotation or Order Acknowledgement meets its particular requirements.
- 2.11. Unless Vislink indicates a contrary method of acceptance in writing, this Contract shall be legally formed and the Parties shall be legally bound on the earlier of:
- 2.11.1. Vislink dispatching its Order Acknowledgement to Customer confirming the terms on which the Parties have agreed to proceed; or
  - 2.11.2. Vislink delivering some or all of the Products agreed in the Order or (if earlier) Vislink informing Customer that those Products are ready for collection.
- 2.12. Each Order constitutes a separate contract. There may be more than one contract between the Parties in force at the same time as this Contract.

### 3. DELIVERY AND RISK

- 3.1. In consideration for the payment of the Fee and any other sums due by Customer under this Contract, Vislink shall supply the Products referred to in the Order to Customer.
- 3.2. Vislink shall use its reasonable endeavours to perform its obligations within any timescales set out in this Contract, but time for performance shall not be of the essence and Vislink shall not have any Liability for any delays or failure to accurately perform its obligations:
- 3.2.1. if it has used those endeavours; or
  - 3.2.2. if caused by any failure or delay on the part of Customer or Customer's agents, staff, officers, employees, contractors or customers or by any breach by Customer of this Contract or any other contract between the Parties. Any timeframe for delivery in a previous contract shall not be an indication of the timeframe for delivery in this Contract.
- 3.3. Any dates quoted for delivery are approximate only. Vislink shall not be liable for any delay in delivery of the Goods that is caused by an Event of Force Majeure or the Customer's failure to provide Vislink with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 3.4. If Vislink fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar

- description and quality in the cheapest market available, less the price of the Products.
- 3.5. Vislink may supply Products with modifications or improvements incorporated into them.
- 3.6. Packaging shall be in accordance with Vislink's customary practices. If Customer would like a special request for packaging, this is subject to Vislink's consent and Customer shall pay the extra cost.
- 3.7. Partial delivery or performance shall be permitted. Vislink may deliver and provide the Products in instalments. Unless the Parties otherwise agree in writing, Vislink may invoice Customer for each instalment.
- 3.8. Delay, default or non-delivery of any instalment by Vislink shall not entitle Customer to cancel or terminate, and shall not affect, the remainder of this Contract.
- 3.9. Unless otherwise agreed in writing between the Parties, this Contract is for delivery of the Products ex works (Incoterms 2010) at the place stipulated as such in the Order Acknowledgement (or if no place stipulated, then Vislink's normal location for dispatch of the Products in the UK). If there is any conflict between the provisions of Incoterms 2010 and this Contract, this Contract shall prevail.
- 3.10. Notwithstanding the place of delivery (including the risk and responsibility allocation in accordance with the ex-works provisions of Incoterms 2010), Vislink reserves the right to dispatch the Products to a carrier selected by Vislink and arrange and pay for the carriage to Customer's premises (as Customer's agent), and invoice Customer for those carriage and insurance costs at the same time as invoicing for the Products.
- 3.11. Vislink shall inform Customer of the estimated date on which the Products will be ready for delivery or collection.
- 3.12. Customer shall ensure that it is ready for safe receipt (or, as the case may be, collection) of the Products without undue delay.
- 3.13. Customer may be required to sign a delivery note and other documentation upon delivery of the Products. The signing of any such documentation by Customer shall be evidence that the Products have been delivered and in the quantities stipulated in the documentation. Customer shall inspect the Products and packaging for any obvious damage (including the sound of breakages) and make a note of any obvious damage when signing.
- 3.14. All risk in the Products shall pass to Customer upon delivery, provided that where delivery is delayed due to breach by Customer of its obligations under this Contract risk shall pass at the date when delivery would have occurred but for that breach.
- 3.15. Customer shall keep the Products fully insured on Vislink's behalf with a reputable insurance company to the reasonable satisfaction of Vislink for their full price against all risks of loss or damage from the time when the risk passes to Customer until property passes in accordance with Clause 4. On request, Customer shall produce the policy of insurance to Vislink. If the Products are lost, damaged or destroyed, Customer shall hold the proceeds of insurance for and to the order of Vislink pending Payment.
- 3.16. If delivery of the Products is delayed or obstructed through Customer's default or breach of this Contract or if Customer unreasonably declines or delays in accepting or taking delivery or receipt of the Products, then, except where such failure or delay is caused by an Event of Force Majeure or Vislink's failure to comply with its obligations under the Contract (and subject to Clause 8), delivery of the Products shall be deemed to have been completed at 9.00am on the delivery date. Vislink shall not have any Liability as a result and Vislink may (without prejudice to any other right or remedy available to it) do all or any of the following:
- 3.16.1. sell the Products for Vislink's account;
  - 3.16.2. cancel this Contract as regards any Products that remain to be delivered or performed;

- 3.16.3. charge a reasonable storage fee for the Products; and
- 3.16.4. require Customer to indemnify Vislink for any and all losses, liabilities, claims, proceedings, judgments, damages, demands, actions, costs, charges, expenses, penalties and fines suffered or incurred by Vislink as a result of Customer declining or delaying.
- 3.17. Where delivery is not to the UK, Customer shall be responsible for complying with all applicable laws, regulations and codes of practice governing the importation and use of the Products in the destination country and for paying any import and export duties or levies.

#### 4. TITLE

- 4.1. Notwithstanding delivery, title to and ownership of the Products shall not pass to Customer until Vislink has received in full (in cash or cleared funds) all sums due to it in respect of:
  - 4.1.1. the Products; and
  - 4.1.2. all other sums which are or which become due to Vislink from Customer on any account; ("Payment").
- 4.2. Until Payment, Customer shall:
  - 4.2.1. hold the Products on a fiduciary basis as Vislink's bailee;
  - 4.2.2. hold the Products in good, saleable condition; and
  - 4.2.3. keep an up-to-date list of the location of Vislink's property and present this to Vislink upon request;
  - 4.2.4. not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
  - 4.2.5. store the Products separately from other goods or in any way so that they remain readily identifiable as Vislink's property.
- 4.3. Customer may resell the Products before Payment solely on the following conditions:
  - 4.3.1. any sale shall be effected in the ordinary course of Customer's business at full market value;
  - 4.3.2. any such sale shall be a sale of Vislink's property on Customer's own behalf and Customer shall deal as principal when making such a sale;
  - 4.3.3. Customer shall keep the proceeds of sale separate from any money or property of Customer or third parties; and
  - 4.3.4. Customer shall still be responsible for paying to the full value of the Payment. If Vislink requires, Customer shall authorise and direct such third party buyer to pay to Vislink a like part of the sum due to Customer in respect of the Products sold and assign to Vislink such part of the debt owed to Customer by the third party.
- 4.4. If the Products are attached to or incorporated into or mixed with any other materials or goods or substances or used in any manufacturing process, the property in the new material or good or substance shall vest until Payment in Vislink in the proportion of the value of the Products to the other constituent elements.
- 4.5. Vislink may at any time until title passes under this Clause 4 without notice recover possession of the Products which are the property of Vislink. Vislink may also require Customer at Customer's cost, within three days of Vislink's request, to deliver up to Vislink or make available to Vislink for collection from a single accessible collection point as Vislink requires all Products which are the property of Vislink. Customer hereby grants to Vislink for Vislink and its agents, staff, officers, employees and contractors an irrevocable licence to enter for that purpose any premises then occupied by or in the ownership or possession of Customer or Customer's customer. Customer shall indemnify Vislink against all claims, losses, damages, liabilities, costs and expenses so arising in exercising its rights under this Clause 4.5.

- 4.6. Vislink may recover payment for the Products notwithstanding that ownership of any of the Products has not passed from Vislink.
- 4.7. On termination of this Contract, howsoever arising, Vislink's rights contained in this Clause 4 shall remain in effect.

#### 5. CUSTOMER REQUIREMENTS

- 5.1. Customer shall be responsible for ensuring that:
  - 5.1.1. the Products meet its requirements and purposes and are suitable for all anticipated uses;
  - 5.1.2. the Products are compatible with its other software, products or equipment;
  - 5.1.3. the Products are properly maintained and used in accordance with Vislink's instructions and in the environment envisaged for use of the Products (including Products intended for indoor use only being used indoors, Products used in the appropriate climates, and Products needing extra protection for particular use having that extra protection);
  - 5.1.4. the Products are maintained by service people of the highest level of competence and training authorised by Vislink and acting with all due care and skill;
  - 5.1.5. the Products are used and disposed of in accordance with all relevant laws, regulations, by-laws and codes of practice relating to those types of equipment;
  - 5.1.6. it co-operates with Vislink's representatives and provides them with all reasonable information and assistance; and
  - 5.1.7. it provides proper, adequate, safe, comfortable and suitable environmental and operating conditions if Vislink undertakes any work at Customer's premises.
- 5.2. Customer acknowledges that if the intended use of the Products is for a mission critical purpose or if it is for a purpose that could involve significant or immeasurable loss if there are not working Products, then it is Customer's responsibility to take all steps necessary to minimise the risk of that, which may include:
  - 5.2.1. placing the Order for the Products in sufficient time to allow for significant buffer time to avoid or minimise the impact of delays, default or non-delivery;
  - 5.2.2. obtaining extra Products if necessary;
  - 5.2.3. having back-up pools or extra products on hot standby;
  - 5.2.4. obtaining sufficient servicing personnel, spares and services of Vislink or Vislink's approved service providers for the proposed use;
  - 5.2.5. ensuring that all of Customer's software and data are regularly copied to secure media for back-up purposes in such a manner to ensure full protection against loss or damage from any cause; and
  - 5.2.6. obtaining sufficient insurance cover to cover the risk.

#### 6. ACCEPTANCE TESTING

- 6.1. This Clause 6 only applies if the Order Acknowledgement provides for any Fees to be paid by a date relating to Customer's acceptance of the Products or if the Order Acknowledgement otherwise provides for Customer to conduct acceptance testing.
- 6.2. Unless otherwise agreed between the Parties in writing, Customer shall arrange for its and Vislink's representatives within 20 Business Days after Customer's receipt of the Products to carry out and conduct acceptance tests. Such tests shall be in accordance with a test plan reasonably designated by Vislink, to test that the Products materially conform to the warranty standard described in the Vislink Warranty Statement. Customer shall arrange a reasonable

time for Vislink to be present when the tests are conducted at Customer's site.

- 6.3. If the Products fail to pass the acceptance tests, the Parties shall co-operate with each other and use all reasonable endeavours to work together to correct any faults as promptly as is reasonably practicable so that the Products materially conform to the warranty standard described in the Vislink Warranty Statement.
- 6.4. The Parties shall both act reasonably in conducting the acceptance tests.
- 6.5. Upon the passing or deemed passing of the acceptance tests, Customer, acting reasonably, shall inform Vislink, and any third party that needs to be informed in order to effect payment (including relevant banks if there is a letter of credit), in writing that the Products have been accepted and the date of acceptance by signing an acceptance certificate in a form reasonably acceptable to Vislink and the third party. The certificate shall not necessarily be the date of acceptance but an acknowledgement that acceptance has been achieved on or before the certificate. However, in any event, if Customer uses the Products in a live environment, the acceptance tests shall be deemed to have been passed as at the date of first use in a live environment.

## 7. WARRANTY

- 7.1. The warranty in relation to all Products which shall apply under these terms and conditions is set out in Part B of the Vislink's VAR Terms and Conditions (the Warranty Statement) to which you should refer.
- 7.2. Vislink's Liability for defective or damaged Products is subject to:
  - 7.2.1. Customer notifying Vislink of any claim promptly upon discovery of the defect or damage and in any event within one month of discovery, specifying with reasonable detail the way in which it is alleged that the Products do not conform to this Contract;
  - 7.2.2. Customer having provided Vislink with Vislink's delivery note number and such other information and documentation as Vislink reasonably requires at the same time as the notice in Clause 7.6.1;
  - 7.2.3. Customer showing to Vislink's reasonable satisfaction that the defect or damage is solely attributable to Vislink's (or Vislink's subcontractors') defective design, materials or workmanship in the Products and not: (a) wear or tear from normal use; or (b) any servicing by anyone after delivery other than by Vislink; or (c) the combination, incompatibility, attachment, affixation, incorporation or mixing of the Products with any other goods, products, materials or substances or (d) Customer's failure to use or incorporate a fix, repair or replacement previously provided by Vislink to Customer; or (e) Customer's failure to carry out its obligations in relation to the Products as set out in these Terms and Conditions (including any documents referred to in it);
  - 7.2.4. the Products having not been: (a) misused or subjected to neglect, improper or inadequate care or carelessness (including being hit, dropped, kicked, knocked or pushed), or abnormal usage conditions; or (b) involved in any accident or attempt at repair, replacement, alteration, change or modification or inspection within the Product itself except by or on behalf of Vislink or as approved by Vislink or in accordance with Vislink's instructions; or (c) dealt with or wired or used or stored contrary to good trade practice or any oral or written instructions, advice or recommendation of Vislink;
  - 7.2.5. Customer allowing Vislink's representatives the opportunity to access, inspect, test, remove, repair and replace the Products;
  - 7.2.6. Customer having paid for the Products in full; and

7.2.7. upon Vislink's request, Customer returning the defective or damaged Products carriage and insurance paid at Customer's risk to Vislink's premises or such other location stipulated by Vislink anywhere in the world and carefully packed to avoid damage in transit. Unless and until Vislink inspects, repairs or receives the Products, Customer shall hold the Products safely and securely in good condition.

- 7.3. The warranty contained in this Clause 7 is specifically limited to Customer. No warranty is made to any other person, whether subsequent buyer or user or customer, or to any bailee, licensee, assignee, employee, agent or otherwise.
- 7.4. If Customer makes an invalid claim under the warranty, Vislink may charge Customer for its fees and costs of examining, testing, storing, repairing and replacing the Products and dealing with the claim and removing and delivering the Products.
- 7.5. Except where expressly provided for within this Contract, Vislink excludes all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of the Products.
- 7.6. Except as provided in this clause 7, Vislink shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 7.1.
- 7.7. The terms implied by section 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 7.8. These conditions shall apply to any repaired or replacement Products supplied by Vislink.

## 8. LIABILITY

- 8.1. "Liability" means liability in or for breach of contract, breach of duty, negligence, misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Agreement, including liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and for the purposes of this definition, all references to this "Agreement" shall be deemed to include any collateral contract).
- 8.2. This Clause 8 prevails over all other Clauses and sets forth the entire Liability of Vislink, and the sole and exclusive remedies of Customer, in respect of:
- 8.3. Vislink does not exclude or limit its Liability for:
- 8.4. Subject to the Clause 8.3, Vislink does not accept and hereby excludes any Liability for Breach of Duty other than any Liability arising pursuant to the terms of this Contract.
- 8.5. Subject to the Clause 8.3, Vislink shall not have any Liability in respect of any:
  - 8.5.1. indirect or consequential losses, damages, costs or expenses;
  - 8.5.2. loss of actual or anticipated profits;
  - 8.5.3. loss of contracts;
  - 8.5.4. loss of use of money;
  - 8.5.5. loss of anticipated savings;
  - 8.5.6. loss of revenue;
  - 8.5.7. loss of goodwill;
  - 8.5.8. loss of reputation;
  - 8.5.9. loss of business;
  - 8.5.10. loss of operation time;
  - 8.5.11. loss of opportunity; or
  - 8.5.12. loss of, damage to or corruption of, data;
  - 8.5.13. whether or not such losses were reasonably foreseeable or Vislink or its agents or contractors had been advised of the possibility of such losses being incurred. For the avoidance of doubt, Clauses 8.5.2 to 8.5.12 apply whether such losses are direct, indirect, consequential or otherwise.
- 8.6. Subject to Clause 8.3, the total aggregate Liability of Vislink shall be limited to the greater of: (a) £10,000; or (b) 110% of the total sums paid and total other sums payable, in

- aggregate, by Customer to Vislink under this Contract, within the 12 months preceding the date on which the claim first arose.
- 8.7. The limitation of Liability under Clause 8.6 has effect in relation both to any Liability expressly provided for under this Contract and to any Liability arising by reason of the invalidity or unenforceability of any term of this Contract.
  9. performance, non-performance, purported performance, delay in performance or mis-performance of this Contract or of any goods, services or software in connection with this Contract; or
  10. otherwise in relation to this Contract or entering into this Contract.
  11. its fraud or fraudulent misrepresentation; or
  12. death or personal injury caused by its Breach of Duty or negligence; or
  13. any breach of the non-excludable obligations implied by law as to having title to supply goods; or
  14. any other Liability which cannot be excluded or limited by applicable law.
- 15. FEES**
- 15.1. Customer shall pay to Vislink the Fee and other sums due under this Contract.
  - 15.2. Where Vislink requires a particular part of a Fee to be paid in advance of delivery of the Products, delivery of the Products is conditional on Vislink first receiving the advanced Fee and any other sums due in cleared funds in full from Customer.
  - 15.3. Unless otherwise stipulated in the Quotation or Long Term Agreement (or otherwise agreed between the Parties in writing), Vislink may issue invoices to Customer for the Fee (or the relevant part) and other sums due in connection with the Fee prior to delivery of the Products.
  - 15.4. Subject to Clause 15.2, unless otherwise provided in the Quotation or Long Term Agreement or otherwise agreed by Vislink in writing, Customer shall pay Vislink for the Fee and any other sums due under this Contract as follows:
    - 15.4.1. 40% with the Order; and
    - 15.4.2. the other 60% prior to commencement of delivery.
  - 15.5. All Fees and sums due under this Contract are exclusive of any value added tax or other sales, import and export duties or taxes (if applicable) which shall be payable in addition at the same time as payment of the Fees and other sums due.
  - 15.6. Customer shall pay Vislink by any payment method reasonably stipulated by Vislink.
  - 15.7. Where this Contract provides for payment by letter of credit, Customer shall conform to such requirements for the letter of credit as are stipulated in this Contract. Unless this Contract specifies to the contrary, the letter of credit shall be confirmed, irrevocable and without recourse, providing for payment at sight, allowing partial deliveries and collections, and issued and confirmed by first class banks to Vislink's satisfaction. The costs for the letter of credit shall be payable by Customer. If Customer fails to provide the required letter of credit, Vislink may exercise the rights in Clause 15.11.
  - 15.8. Unless otherwise stipulated in this Contract or agreed in writing between the Parties, payment shall be in the currency in force in England from time to time.
  - 15.9. Payment shall be deemed made when Vislink has received cleared funds in full.
  - 15.10. Payment of all sums due to Vislink under this Contract shall be made by Customer in full without any set-off, deduction or withholding whatsoever.
  - 15.11. If Customer is late in paying any part of any monies due to Vislink under this Contract or any other agreement between the Parties, Vislink may (without prejudice to any other right or remedy available to it whether under this Contract or by any statute, regulation or bye-law) do any or all of the following:
    - 15.11.1. charge interest on the amount due but unpaid at the annual rate of interest of 4% above the Bank of England base rate from time to time from the due date until payment (after as well as before

- judgment), such interest to run from day to day and to be compounded monthly; and
- 15.11.2. sell or otherwise dispose of any Products which are the subject of any Order, whether or not appropriated thereto, and apply the proceeds of sale to the overdue payment; and
  - 15.11.3. suspend the performance of this Contract and any other agreement between Vislink and Customer until payment in full has been made.

**16. INTELLECTUAL PROPERTY RIGHTS**

- 16.1. Customer acknowledges that, as between the Parties, Vislink and its licensors and suppliers own all intellectual property rights in the Products (including any software within the Products) and any delivered documentation or materials relating to the Products, whether or not they are created, developed, designed, customised, adapted, altered or assembled in accordance with Customer's instructions, requirements or designs. To the extent that Customer owns or would otherwise own any such intellectual property rights, Customer hereby assigns (by way of present and future assignment of copyright) to Vislink any intellectual property rights existing or that may in the future exist in such Products (including software) and documentation or materials.
- 16.2. Customer shall have a licence to use Vislink's intellectual property rights to the extent necessary to exercise its rights in the manner envisaged by Vislink.
- 16.3. Subject to the rest of this Agreement, Vislink shall indemnify and keep fully indemnified Customer against any and all liabilities, losses, penalties, damages, charges, demands, actions, proceedings, judgments, costs and expenses which Customer may incur or suffer as a result of any claim brought against Customer by a third party alleging infringement of its intellectual property rights as a result of the use of the Products by Customer provided that:
  - 16.3.1. Customer gives written notice to Vislink of any claims or proceedings without undue delay following receipt of them;
  - 16.3.2. Customer makes no admission of liability and gives Vislink sole authority to defend or settle the claims or proceedings at Vislink's cost and expense;
  - 16.3.3. Customer gives Vislink all reasonable help as requested by Vislink or otherwise in connection with the claims or proceedings, Customer's reasonable cost and expense to be borne by Vislink; and
  - 16.3.4. the claim has not arisen as a result of Customer using or combining the Products with any goods, equipment, software or materials not supplied by Vislink.
- 16.4. Vislink shall have no obligation or Liability under Clause 16.3 to the extent that any alleged infringement arises from:
  - 16.4.1. failure of Customer to use any addition, alteration, change, modification, enhancement or fix made available by Vislink to Customer that would have corrected the infringement;
  - 16.4.2. any addition, alteration, change, modification or enhancement made without Vislink's express prior written consent;
  - 16.4.3. any Third Party Components (although Vislink shall pass on to Customer such proportion as is reasonable of the benefit of any remedies received by Vislink from the third party supplier);
  - 16.4.4. the combination or incompatibility of the Products with any hardware, operating system or third party software not supplied by Vislink
  - 16.4.5. failure to operate the Products in accordance with this Contract or any other agreement between the Parties (or Vislink's written instructions);
  - 16.4.6. any part of the Products created, developed, designed, customised, adapted, altered or assembled in accordance with Customer's

- instructions, requirements or designs (in which case Customer shall instead indemnify Vislink on the same basis as under Clause 16.3); or
- 16.4.7. any breach of any of the terms of this Contract or any other agreement between the Parties or any negligent, willful or fraudulent act or omission of or by Customer or its officers, employees, agents, contractors or customers.
- 16.5. In dealing with any claim for infringement of a third party's intellectual property rights, Vislink may at its expense and option:
  - 16.5.1. procure the right for Customer to continue using the Products;
  - 16.5.2. make any changes to the Products without materially reducing their functionality; or
  - 16.5.3. refund a fair proportion of the Fees paid by Customer to Vislink under this Contract (to take account of any use of the Products by Customer), subject to Customer first returning the Products to Vislink in excellent condition.
- 16.6. Customer shall use all reasonable endeavours to mitigate the effects on Vislink under this Clause 16.
- 16.7. This Clause 16 states Vislink's entire Liability to Customer in respect of the infringement of the intellectual property rights of any third party.

## 17. TERM AND TERMINATION

- 17.1. This Contract shall commence when it becomes legally binding in accordance with Clause 2.11 and, unless terminated earlier by either Party exercising any right of termination as set out in this Contract, shall continue in force until the later of:
  - 17.1.1. Customer having paid for the Fees and all outstanding sums due by Customer to Vislink in full; and
  - 17.1.2. Vislink having delivered all the Products to Customer.
- 17.2. Either Party may terminate this Contract immediately by notice in writing to the other Party if:
  - 17.2.1. the other Party is in persistent breach of any of its obligations under this Contract or any other agreement between the Parties; or
  - 17.2.2. the other Party is in material breach of any of its obligations under this Contract or any other agreement between the Parties which is incapable of remedy; or
  - 17.2.3. the other Party fails to remedy, where capable of remedy, any material breach of any of its obligations under this Contract or any other agreement between the Parties after having been required in writing to remedy such breach within a period of no less than 30 days; or
  - 17.2.4. the other gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986), or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt.
- 17.3. Where Customer anticipates it will be giving notice to its creditors under clause 17.2.4, Customer shall first inform Vislink of this as soon as possible and before notice is given to any creditors.

- 17.4. In any event, Vislink may terminate this Contract if Customer is at least 10 Business Days' late in paying any sum due under this Contract or any other agreement between the Parties.
- 17.5. Termination of this Contract shall be without prejudice to any accrued rights or remedies of either Party.
- 17.6. Termination of this Contract will not affect the coming into force or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.
- 17.7. Upon termination of this Contract for any reason:
  - 17.7.1. Vislink shall cease to perform this Contract; and
- 18. all outstanding Fees and any other sums shall become immediately payable, whether invoiced or not.

## 19. FORCE MAJEURE

- 19.1. Save for obligations in respect of payment of the Fees, neither Party shall have any Liability for any breach, hindrance or delay in the performance of this Contract attributable to any cause beyond its reasonable control, including any act of God, actions or omissions of third parties not in the same group as the Party seeking to rely on this clause (including hackers, suppliers, couriers, governments, quasi-governmental, supra-national or local authorities), insurrection, riot, civil war, civil commotion, war, hostilities, threat of war, warlike operations, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions, national emergencies, terrorism, nuclear, chemical or biological contamination or sonic boom, piracy, arrests, restraints or detentions of any competent authority, blockade, strikes or combinations or lock-out of workmen, epidemic, fire, explosion, storm, flood, drought, adverse weather conditions, loss at sea, earthquake, natural disaster, accident, collapse of building structures, failure of plant machinery or machinery or third party computers or third party hardware or vehicles, failure or problems with public utility supplies (including general: electrical, telecoms, water, gas, postal, courier, communications or Internet disruption or failure), shortage of or delay in or inability to obtain supplies, stocks, storage, materials, equipment or transportation ("Event of Force Majeure"), regardless of whether the circumstances in question could have been foreseen.
- 19.2. Each of the Parties agrees to inform the other upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event of Force Majeure.
- 19.3. By the agreement of both parties, the performance of each Party's obligations shall be suspended during the period that the circumstances persist and such Party shall be granted an extension of time for performance equal to the period of the delay.
- 19.4. Each Party shall bear its own costs incurred by the Event of Force Majeure.
- 19.5. Should any performance of obligations be delayed under this Clause 19, each Party shall nevertheless accept performance as and when the other shall be able to perform.
- 19.6. If the Event of Force Majeure continues without a break for more than one month, either Party may terminate this Contract immediately by notice to the other, in which event neither Party shall have any Liability by reason of such termination.
- 19.7. If Vislink has contracted to provide identical or similar products to more than one customer and is prevented from fully meeting its obligations to Customer by reason of an Event of Force Majeure, Vislink may decide at its absolute discretion which contracts it will perform and to what extent.

## 20. NOTICES

- 20.1. Any notices or other communications given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office or

such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.

- 20.2. Notice or other communication shall be deemed to have been received:
- 20.2.1. if delivered personally, when left at the address referred to in clause 20.1;
  - 20.2.2. if sent by pre-paid first class post or other next working day delivery service, at 9.00am on the second Business Day after posting;
  - 20.2.3. if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed;
  - 20.2.4. if sent by fax or email, one Business Day after transmission;
  - 20.2.5. or if sent by air mail, five days after posting it.
- 20.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## 21. ASSIGNMENT

- 21.1. Subject to any assignee (in the case of an assignment) confirming in writing to be bound by the provisions of this Contract, Vislink may assign, transfer, mortgage, charge, novate or subcontract or deal in any other manner with all or any of its rights, liabilities or obligations under this Contract either in whole or in part to any other person, firm or company. Vislink shall promptly give notice to Customer of any action taken by it under this clause.
- 21.2. Customer shall not (or purport to) assign, transfer, novate, mortgage, charge or otherwise encumber, create any trust over or deal in any manner with this Contract or any of its rights, liabilities or obligations under this Contract without the prior written consent of Vislink (such consent not to be unreasonably withheld or delayed).

## 22. ANTI-BRIBERY COMPLIANCE

- 22.1. Reseller shall:
- 22.1.1. comply with all applicable anti-bribery and anti-money laundering laws, rules, and regulations of the United Kingdom, United States, European Union or any member state, the Republic of Singapore, and any other similar laws in all applicable jurisdictions. These laws include, without limitation, the currently effective or successor versions of the U.S. Foreign Corrupt Practices Act; the UK Bribery Act 2010; the UK Money Laundering Regulations 2007; the UK Anti-Terrorism, Crime, and Security Act 2001; the UK Proceeds of Crime Act 2002; and the Singapore Penal Code.;
  - 22.1.2. comply with the Vislink's Anti-Bribery Policy as set out on Vislink's website and any other relevant policies as Vislink may update from time to time;
  - 22.1.3. have and maintain in place throughout the Term of this Agreement its own policies and adequate procedures to ensure compliance with the Bribery Act 2010 and all relevant anti-bribery regulations;
  - 22.1.4. promptly report to Vislink any request or demand for any undue financial or other advantage of any kind received by Reseller in connection with the performance of this Agreement;
  - 22.1.5. ensure that any person associated with the Reseller who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on such person terms equivalent to those imposed on the Reseller in this clause 16. Reseller shall be responsible for the observance and performance by such persons and shall be directly liable to Vislink for any breach by such persons of any of the Bribery Act 2010 and relevant anti-bribery regulations;
  - 22.1.6. within 3 months of the date of this Agreement, and annually thereafter, certify to Vislink in writing

signed by an officer of the Reseller, compliance with this clause 15 by the Reseller. Reseller shall provide such supporting evidence of compliance as Vislink may request.

- 22.2. Breach of this clause 15 shall be deemed a material breach under these terms and conditions.
- 22.3. For the purpose of this clause 15, the meaning of adequate procedures shall be determined in accordance with section 7(2) of the bribery act 2010 (and any guidance issued under section 9 of that act).

## 23. GENERAL

- 23.1. Unless a Party expressly states in writing that it is waiving a particular power, right or remedy in a particular stated instance, no failure or delay or omission by either Party in exercising any power, right or remedy under this Contract or at law shall operate as a waiver of such power, right or remedy; and no waiver in any particular instance shall extend to or affect any other or subsequent event or impair any powers, rights or remedies in respect of it or in any way modify or diminish that Party's other powers, rights or remedies under this Contract or at law.
- 23.2. If any Clause or other provision in this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall in no way affect any other Clause or provision or part of any Clause or provision, all of which shall remain in full force and effect.
- 23.3. Nothing in this Contract shall create or be deemed to create a partnership, joint venture, agency or a relationship of employer and employee between the Parties or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 23.4. A person who is not a Party to this Contract has no rights under any law to enforce any term of this Contract.
- 23.5. Customer is responsible for complying with any applicable government export control laws and regulations.
- 23.6. 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 and construed in accordance with English law. The Parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim brought by Customer arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims). Nothing in this Clause 23.6 shall limit the right of Vislink to take proceedings against Customer in any other court of competent jurisdiction. All dealings, correspondence and contacts between the Parties shall be made or conducted in the English language.