

## 1. DEFINITIONS

- 1.1 "ClearVision Communications" shall mean Babylon Communications Ltd t/a ClearVision Communications, or any agents or employees thereof.
- 1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing Products and Services from ClearVision Communications.
- 1.3 "Products" shall mean:
  - 1.3.1 all Products of the general description specified on the front of this agreement and supplied by ClearVision Communications to the Customer; and
  - 1.3.2 all Products supplied by ClearVision Communications to the Customer; and
  - 1.3.3 all inventory of the Customer that is supplied by ClearVision Communications; and
  - 1.3.4 all Products supplied by ClearVision Communications and further identified in any invoice issued by ClearVision Communications to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
  - 1.3.5 all Products that are marked as having been supplied by ClearVision Communications or that are stored by the Customer in a manner that enables them to be identified as having been supplied by ClearVision Communications; and
  - 1.3.6 all of the Customer's present and after-acquired Products that ClearVision Communications has performed work on or to or in which goods or materials supplied or financed by ClearVision Communications have been attached or incorporated.
  - 1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4 "Products and Services" shall mean all products, goods, services and advice provided by ClearVision Communications to the Customer and includes without limitation all tv aerial, satellite and wireless installations, data cabling and the supply of associated products and all charges for time and attendances, hire charges, insurance charges, or any fee or charge associated with the supply of Products and Services by ClearVision Communications to the Customer.
- 1.5 "Price" shall mean the cost of the Products and Services as agreed between ClearVision Communications and the Customer and includes all disbursements eg charges ClearVision Communications pay to others on the Customer's behalf subject to clause 4 of this contract.
- 1.6 "Normal working hours" are 8am to 5pm Monday to Friday.

## 2. ACCEPTANCE

- 2.1 Any instructions received by ClearVision Communications from the Customer for the supply of Products and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.
- 2.2 All new jobs must have a purchase order number to be accepted.

## 3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises ClearVision Communications to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Products and Services provided by ClearVision Communications to any other party.
- 3.2 The Customer authorises ClearVision Communications to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

## 4. PRICE

- 4.1 Where no price is stated in writing or agreed to orally the Products and Services shall be deemed to be sold at the current amount as such Products and Services are supplied by ClearVision Communications at the time of the contract.
- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Products and Services that is beyond the control of ClearVision Communications between the date of the contract and supply of the Products and Services.
- 4.3 Labour charges are one time and a half of the normal pricing if the work is required outside the normal working hours listed in clause 1.6.

## 5. PAYMENT

- 5.1 For Customers without an account contract, payment for Products and Services shall be made in full on or before the 7<sup>th</sup> day following the date of the invoice ("the due date").
- 5.2 For Customers with an account contract, payment for Products and Services shall be made in full on or before the 20<sup>th</sup> day of the month following the date of the invoice.
- 5.3 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.4 Any expenses, disbursements and legal costs incurred by ClearVision Communications in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.

## 6. QUOTATION

- 6.1 Where a quotation is given by ClearVision Communications for Products and Services:
  - 6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
  - 6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary.

## 7. AGENCY

- 7.1 The Customer authorises ClearVision Communications to contract either as principal or agent for the provision of Products and Services that are the matter of this contract.
- 7.2 Where ClearVision Communications enters into a contract of the type referred to in clause 7.1 it shall be read with and form part of this agreement and the Customer agrees to pay any amounts due under that contract.

## 8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 8.1 Title in any Products and Services supplied by ClearVision Communications passes to the Customer only when the Customer has made payment in full for all Products and Services provided by ClearVision Communications and of all other sums due to ClearVision Communications by the Customer on any account whatsoever. Until all sums due to ClearVision Communications by the Customer have been paid in full, ClearVision Communications has a security interest in all Products and Services.
- 8.2 If the Products and Services are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products and Services shall remain with ClearVision Communications until the Customer has made payment for all Products and Services, and where those Products and Services are mixed with other property so as to be part of or a constituent of any new Products and Services, title to these new Products and Services shall be deemed to be

assigned to ClearVision Communications as security for the full satisfaction by the Customer of the full amount owing between ClearVision Communications and Customer.

- 8.3 The Customer gives irrevocable authority to ClearVision Communications to enter any premises occupied by the Customer or on which Products and Services are situated at any reasonable time after default by the Customer or before default if ClearVision Communications believes a default is likely and to remove and repossess any Products and Services and any other property to which Products and Services are attached or in which Products and Services are incorporated. ClearVision Communications shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. ClearVision Communications may either resell any repossessed Products and Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and Services and credit the Customer's account with the invoice value thereof less such sum as ClearVision Communications reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 8.4 Where Products and Services are retained by ClearVision Communications pursuant to clause 8.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 8.5 The following shall constitute defaults by the Customer:
  - 8.5.1 Non payment of any sum by the due date.
  - 8.5.2 The Customer intimates that it will not pay any sum by the due date.
  - 8.5.3 Any Products and Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products and Services.
  - 8.5.4 Any Products and Services in the possession of the Customer are materially damaged while any sum due from the Customer to ClearVision Communications remains unpaid.
  - 8.5.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.
  - 8.5.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
  - 8.5.7 Any material adverse change in the financial position of the Customer.

## 9. SECURITY INTEREST FOR SERVICE PROVIDERS

- 9.1 The Customer gives ClearVision Communications a security interest in all of the Customer's present and after-acquired property that ClearVision Communications has performed services on or to or in which products or materials supplied or financed by ClearVision Communications have been attached or incorporated.

## 10. LIABILITY

- 10.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon ClearVision Communications which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on ClearVision Communications, ClearVision Communications' liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 10.2 Except as otherwise provided by clause 10.1 ClearVision Communications shall not be liable for:
  - 10.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Products and Services by ClearVision Communications to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products and Services provided by ClearVision Communications to the Customer; and
  - 10.2.2 The Customer shall indemnify ClearVision Communications against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of ClearVision Communications or otherwise, brought by any person in connection with any matter, act, omission, or error by ClearVision Communications its agents or employees in connection with the Products and Services.
  - 10.2.3 If contrary to the disclaimer of liability contained in these terms and conditions of trade ClearVision Communication is deemed liable to the Customer, following and arising from the supply of Products and Services by ClearVision Communications to the Customer, then such liability is limited in its aggregate to \$500.

## 11. WARRANTY

- 11.1 Manufacturer's warranty applies where applicable.

## 12. CONSUMER GUARANTEES ACT

- 12.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products and Services from ClearVision Communications for the purposes of a business in terms of section 2 and 43 of that Act.

## 13. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 13.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for ClearVision Communications agreeing to supply Products and Services and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to ClearVision Communications the payment of any and all monies now or hereafter owed by the Customer to ClearVision Communications and indemnify ClearVision Communications against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

## 14. MISCELLANEOUS

- 14.1 ClearVision Communications shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 14.2 Failure by ClearVision Communications to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations ClearVision Communications has under this contract.
- 14.3 The Customer agrees not to directly approach, induce or to engage any of ClearVision Communications' contractors or employees for the purpose of undertaking private work.
- 14.4 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.