



Commercial-In-Confidence

Texas A&M Univ - AE - CPU, PSLA, Shogun Upgrade - Zohaib Hasnain
Ref: 00026609

Quote Information:

Date	Expiration Date
05/17/2019	05/31/2019

Contact Information:

Vicon Sales Contact	Primary Customer Contact
George Miller	Zohaib Hasnain
(303) 268-3911	(240) 766-6868
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Vicon Motion Systems Inc 7388 S Revere Pkwy Suite 901 Centennial CO 80112 United States	Texas A&M University - Department of Aerospace Engineering - Hasnain Lab United States



Vicon System Components

No.	Product	Qty.	RRP	Discount	Price
1	Advanced PC System - Dual Video High-end Vicon PC enables up to 2 Vicon Vue reference video recording. Minimum specs include: mATX 4 drive bay chassis Intel® I9 7900X 10 core 20 Thread 3.3Ghz s2066 AIC Advanced Cooling with optimal fan tuning 32GB (2x16GB) 3000MHz RAM GeForce 1050Ti 768 core 1468Mhz Boost 2 off 250GB SSD Boot Drive Read 520MB/s 1 off 4TB WD Black SATA III 6gbs 650W 80 PLUS Platinum PSU Asus X299 MOBO 1 off 4 Port Intel I350-T4 Gigabit network Card 64 bit Windows 10 operating platform INC Wired Keyboard and Mouse	1	\$4,875.00		\$4,875.00
Peripherals Subtotal					\$4,875.00

No.	Product	Qty.	RRP	Discount	Price
2	Vicon Shōgun 1.0 Single seat license for Vicon Shōgun. Includes both Live and Post. Key Features: -Live subject calibration -Save real-time data to disk -Direct to game engine integration -Unbreakable real-time solving -Live calibration recovery -Video mesh overlay Includes single seat of Shogun. Additional licenses available for \$4000 each.	1	\$10,000.00	50%	\$5,000.00
Software Subtotal					\$5,000.00

No.	Product	Qty.	RRP	Discount	Price
3	Vicon Premier Plan C One year Support Plan including: Unlimited phone, email and web tech support. Access to Vicon Forum, online help files and videos. Remote assisted training (8hrs) on all Vicon platforms. Software Maintenance release. Software Version Upgrades. Access to unlimited trial licences for all software products (Exclusions apply). Discount on-site training sessions. Custom on-site system optimization - One per plan. Priority shipping of replacement hardware. Vicon to cover the cost of collecting faulty items. Vicon to cover the cost of returning fixed units. 20 Markers per year. Broken Dongle replacement (Max 2 per year). For customers with a maximum of the following components: 26-40 Vicon Vantage/T-series, 5+ Cara, and/or 20-49 IMUs. For each camera above the 40, it is an additional £150/\$250 per camera.	1	\$22,500.00	15%	\$19,125.00
Contract Subtotal					\$19,125.00

Totals:

Section	Price
Total List Price	USD 37,375.00
Total Discount	USD 8,375.00
Grand Total Including Discount. Excluding: Tax, Shipping and Duties	USD 29,000.00

Shipping Terms:

Domestic (U.S.)

Final shipping cost will be confirmed upon final quote acceptance and delivery requirements stated.

Payment Terms:

Texas A&M University - Department of Aerospace Engineering - Hasnain Lab - Credit - 30 days.

The customer shall pay Vicon by inter-bank transfer or cheque (or by such other means as Vicon may direct) 100% of the invoice amount within 30 days of the invoice date.

Date of invoice is date of shipment from Vicon.

Errors and omissions excepted.

This quote does not include any local TAX, duties or import duties unless explicitly stated in the quote detail.

Vicon Terms and Conditions of sale apply to this quote unless stated otherwise by Vicon.

Addresses:

To Address (Goods final location)	Billing Address	Shipping Address
Zohaib Hasnain zhasnain@tamu.edu Texas A&M University - Department of Aerospace Engineering - Hasnain Lab United States		

NB:

If any of the above information is incorrect or is about to change please notify us as soon as possible, this may invalidate this quotation.

In addition if there are any other parties involved in the purchase of equipment it would be very helpful if you could provide us with their details.

Installation Statement:

Vicon Motion Systems assumes no responsibility for the construction of the facility or installation of camera mounts or force platforms. Vicon Motion Systems will install all VICON software on the systems computer(s), Vicon specific equipment and will electronically interface the peripheral equipment (such as force plates) during installation, if requested.

Vicon Motion Systems, Inc.**Terms and Conditions of Supply of Products and Services****1. Definitions**

"**Acceptance**" means a written acceptance of the Order, which is issued by Vicon.

"**App**" means any of Vicon's (or its group companies) proprietary mobile application software identified in the Acceptance which is intended to be utilized in conjunction with the Products.

"**Computer Software**" means a machine readable version of Vicon's proprietary computer software identified in the Acceptance which is intended to be utilized in conjunction with any Goods.

"**Contract**" means a contract as more particularly described in clause 2.

"**Customer**" means any person receiving or entitled to receive Products and/or Services from Vicon.

"**Customer Training**" means the training of the Customer's staff in the use of the Goods and (if applicable) the Computer Software.

"**Delivery**" means when the Products have been delivered in accordance with clause 7 and "**Delivered**" shall have a corresponding meaning.

"**Deposit**" means the deposit payable by the Customer under clause 6.

"**Distributor**" means a person appointed by Vicon, under a separate agreement to resell the Products in a nominated territory.

"**Embedded Software**" means any of Vicon's (or its group companies) proprietary software, Open Source Software and Third Party Software embedded in the IMU Goods.

"**Goods**" means any motion capture system or wearable inertial measurement unit or other equipment, article or product (other than the Software) or product (other than Software) to be sold to a Customer by Vicon as set out in the Acceptance.

"**IMU Goods**" means the Goods branded or labelled as being "IMU" or "IMEASUREU".

"**Insolvency Event**" in relation to a person, means any of the following: (a) a meeting of creditors of that person being held or an arrangement or composition with or for the benefit of its creditors (including a voluntary petition in bankruptcy) being proposed by or in relation to that person; (b) a lienholder, receiver, administrative receiver, trustee or other similar person taking possession of or being appointed over or any writ, execution or other process being levied or enforced (and not being discharged within 7 days) on the whole or a material part of the assets of that person; (c) that person ceasing to carry on business or being deemed to be unable to pay its debts when they come due ; (d) that person or its directors giving notice of their intention to appoint, or making an application to the court for the appointment of, an administrator; (e) a petition being presented (and not being discharged within 28 days) or a resolution being passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of that person; or (f) the happening in relation to that person of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets.

"**Installation**" means the installation of the Products at the Customer's premises.

"**Installation Certificate**" means a certificate issued by or on behalf of Vicon confirming that the Goods and (if relevant) Computer Software and/or Third Party Software have been properly installed.

"**Intellectual Property**" means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case, whether registered or not, including any applications to protect or register such rights, including all renewals and extensions of such rights or applications, whether vested, contingent or future, to which the relevant party is or may be entitled, and in whichever part of the world existing;

"**L C Facility**" means a letter of credit facility of the type referred to in clause 5.

"**Non-refundable Deposit**" has the meaning set out in clause 6.

"**Open Source Software**" means open-source software as defined by the Open Service Initiative (<http://opensource.org>) or the Free Software Foundation (<http://fsf.org>).

"**Order**" means a request made by the Customer to Vicon for the supply of Products and Services specifying the number and (if appropriate) model number of the Products which are the subject of the Order.

"**Price**" means all amounts payable by the Customer in respect of the supply of the Products and Services under an Acceptance.

"**Products**" means the Goods and Software.

"**Quotation**" means a non-binding written price estimate (as revised or varied by Vicon from time to time in accordance with these Terms) issued by Vicon to the Customer in relation to the supply of Products and/or Services.

"**Remedy**" has the meaning set out in clause 14.

"**Services**" means all services provided or to be provided by Vicon to the Customer under an Acceptance.

"**Software**" means the Computer Software or Embedded Software, together with any technical manual or instructions relating to the use of such software, but shall exclude Third Party Software.

"**Software License**" means the license granted under clause 9.

"**Terms**" means these terms and conditions of supply.

"**Third Party Software**" means software the proprietary interest in which is owned by a third party and which is supplied by Vicon under an Acceptance.

"**Third Party Software Licenses**" means software any licenses relating to any Third Party Software or Open Source Software, including the general public license (if applicable), under which third party proprietors license such software to end users such as the Customer.

"**Vicon**" or "**VMS**" means Vicon Motion Systems, Inc. of 7388 S. Revere Parkway Suite 901, Centennial CO 80112 USA .

"**VSLA**" has the meaning in clause 23.3(d)(i).

"**Warranty Period**" has the meaning in clause 14.

2. Application of Terms

2.1 These Terms shall apply to any contract made between Vicon and the Customer for the supply of Products and/or Services. No variation or addition to these Terms shall be binding upon Vicon unless Vicon has expressly agreed to such variation in writing.

2.2 A contract made between Vicon and a Customer shall consist of these Terms and the Acceptance. If there is any inconsistency between those documents, then the Acceptance shall take precedence. No terms or conditions proposed by the Customer shall apply unless Vicon has expressly agreed to those terms in writing. In particular, no terms and conditions endorsed upon, delivered with or contained in the Order, tender document or materials provided by the Customer shall form part of the contract, unless expressly agreed in writing and signed by a duly authorized person on behalf of each of the Customer and Vicon.

3. Quotations and Orders

3.1 Any Quotation given by Vicon shall be in writing or shall subsequently be confirmed in writing and shall be provided with a copy of these Terms.

3.2 When an Order is placed by a Customer in response to a Quotation, that Order shall constitute an offer made by the Customer to Vicon and be subject to these Terms. Such an offer shall be treated as the Customer's acceptance of these Terms. The Order may be accepted or rejected by Vicon.

3.3 When an enquiry is submitted by a Customer otherwise than in response to a Quotation, for example in the form of a request for responses to a tender, Vicon shall provide to the Customer a Quotation and a copy of these Terms. The Customer may then place an Order in response to that Quotation and that Order shall constitute an offer made by the Customer to Vicon. Such an Offer shall be treated as the Customer's acceptance of these Terms. The Order may be accepted or rejected by Vicon.

3.4 In both cases 3.2 and 3.3 above, an Order shall be accepted by Vicon only if an Acceptance is issued by Vicon in relation to that Order or the relevant Goods are Delivered. In no case shall issuing a Quotation constitute an Acceptance.

3.5 Each Order shall set out the Customer's requirements in relation to:

- (a) the Goods;
- (b) the Software;
- (c) the Third Party Software (which is not Embedded Software);
- (d) Installation; and
- (e) Customer Training.

3.6 Where Installation is requested in the Order, the Order shall include details of all safety, building and electrical codes and regulations relevant to the Installation. Unless Installation and Customer Training are requested in an Order and an Acceptance setting out those details been issued for that Order, Vicon is not obliged to provide such services nor shall the Price set out in the Acceptance include these services.

3.7 An Order shall (in the absence of any contrary stipulation by Vicon) be deemed to incorporate the price stated in the most recent Quotation (as subsequently revised or varied).

4. Prices

4.1 All prices stated in Quotations shall be in US Dollars (unless otherwise indicated in the Quotation) and are exclusive of shipping, insurance and all relevant government duties and taxes (unless otherwise specified in the Quotation). These are the responsibility of the Customer.

4.2 The price stated in any Quotation may be varied by Vicon at any time prior to issue of an Acceptance or after issue of an Acceptance (provided such variation is in accordance with these Terms).

4.3 If, following receipt by Vicon of an Order and prior to issue of an Acceptance, Vicon becomes unable or unwilling to supply the Products or Services (or part of these) specified in the Order for the price stated in the relevant Quotation, Vicon may issue a revised Quotation. The Customer shall either confirm its Order and acceptance of the Terms on the revised Quotation or withdraw the Order by sending written notice to Vicon.

4.4 At any time prior to Delivery, Vicon may vary the Price to reflect increases in cost of Product components imported from outside the United States (whether or not they reflect changes in exchange rates or government duties or taxes) or to take account of any other increases in costs, including without limitation supplies, materials, labor, operation or transport **PROVIDED THAT** in the event of any variation in Price, the Customer may cancel the Order within 14 days of being notified of the change and where the Order is cancelled each party shall be discharged from any further liability to the other in relation to that Contract. In the event of cancellation all money paid by the Customer to Vicon in respect of the cancelled Order shall be refunded to the Customer. If the Customer does not cancel the Order within 14 days, the Customer will be deemed to have agreed to the increase and the Price will increase accordingly.

4.5 After issue of the Acceptance the Customer may not vary its Order without the written approval of Vicon.

5. Letter of Credit

If Products are to be installed at premises of the Customer located outside the United States, any Acceptance issued by Vicon shall (unless otherwise specifically agreed by Vicon) be conditional upon the Customer having arranged an irrevocable on-sight letter of credit facility advised and confirmed by a first class London bank ("L C Facility").

6. Payment

6.1 The Customer shall pay the Price in accordance with this clause.

6.2 **Price and Deposit:** Upon submitting the Order, the Customer shall pay to Vicon in cash, by way of electronic bank transfer to Vicon's account as set out in the Acceptance or otherwise notified to the Customer (or by such other means as Vicon may direct):

- (a) in the case of IMU Goods, the Price and, subject to clause 13.1, the Price shall be non-refundable save it the circumstances set out in clause 6.4 below; and
- (b) in the case of all Products and Services except IMU Goods, a deposit of 50% of the Price (the "**Deposit**") and, subject to clause 13.1, of that Deposit, an amount equal to 20% of the Price shall be non-refundable (the "**Non-refundable Deposit**") save in the circumstances set out in 6.4 below.

6.3 **Balance :** In the case of all Products and Services except IMU Goods, the Price (less any Deposit which has been paid) is payable as follows:

- (a) where the Products are to be installed (regardless of whether Vicon is carrying out the Installation) at premises located within the United States, the Customer shall pay the Price (less any Deposit which has been paid) to Vicon in cleared funds (against delivery of an invoice in respect of such sum) within 7 days of Delivery of the Products; or
- (b) where the Products are to be installed (regardless of whether Vicon is carrying out the Installation) at premises located outside the United States, the Customer shall pay the Price (less any Deposit which has been paid) to Vicon pursuant to the terms of the relevant L C Facility upon production of documentation evidencing Delivery of the Products.

6.4 Subject to clause 13.1, the Price (in respect of IMU Goods) and the Non-Refundable Deposit (in respect of all other Products and Services) shall only be refundable in the following circumstances:

(a) the Order is cancelled by the Customer prior to an Acceptance by Vicon, in which case Vicon shall refund all of the Price (in respect of the IMU Goods) and all of the Deposit (in respect of all other Products and Services);

(b) the Order is cancelled by the Customer in accordance with clause 4.4, then the provisions of that clause will apply;

(c) any requisite export license is not obtained and clause 10.3 applies; or

(d) the performance by Vicon of its obligations becomes impossible due to an event outside its reasonable control and clause 18.2 applies.

6.5 The Customer may not withhold or set off payment of any part of the Price for any reason.

6.6 Without prejudice to any other rights of Vicon, Vicon may charge the Customer interest on a daily basis at the Bank of America's reference rate from time to time plus 3% (not to exceed the maximum extent permitted by applicable law) on all outstanding amounts due under these Terms from the due date for payment until actual payment in full, whether before or after judgment.

6.7 If Vicon reasonably considers that the financial condition of the Customer at any time does not justify continuation of production or delivery on the terms of payment set out in these Terms, then Vicon may (without prejudice to any other right or remedy available to it and without incurring any liability to the Customer whatsoever) delay Delivery and require full or partial payment in advance as a condition of Delivery.

7. Delivery

7.1 The Customer shall arrange for the collection and transport of the Products. All costs associated with collection and transport shall be paid for by the Customer.

7.2 Vicon shall use commercially reasonable efforts to make the Products available for collection by the agreed date. However, time shall not be of the essence and Vicon shall not be liable for any loss arising out of any delay or failure in making the Products available for collection or transport on the agreed date.

7.3 Any delay in collection requested by the Customer is subject to the prior consent in writing of Vicon. Any additional costs incurred by Vicon as a result of such delay shall be paid by the Customer.

7.4 Delivery of the Products shall be on an Ex Works basis, with delivery deemed to take place at the premises of Vicon when the Customer (or its agent) collects the Products, unless Vicon informs the Customer in writing that Delivery will take place when the Products are made available for collection, in which case Delivery shall be deemed to have taken place on that date, regardless of whether the Products have been collected by the Customer.

7.5 Risk in the Products shall pass to the Customer on Delivery.

7.6 Vicon may, at the request and cost of the Customer arrange for carriage of the Products from Vicon's premises to a delivery address nominated by the Customer. In such circumstances any agreed date or time for delivery to such nominated premises shall be an estimate and time shall not be of the essence. Vicon shall act as agent for the Customer and the Customer will indemnify Vicon against any loss, damage, expense and all costs relating to the shipping of the Products on behalf of the Customer. Delivery shall be deemed to take place in accordance with clause 7.4 and risk shall pass in accordance with clause 7.5.

8. Title

8.1 Notwithstanding Delivery of any Goods the title in each item shall only pass to the Customer when Vicon has received all amounts owed to it from the Customer, whether or not then due and whether or not owing in respect of the particular item.

8.2 So long as title in the Goods remains with Vicon, the Customer shall hold the Goods as a bailee of Vicon and the Customer shall:

(a) ensure that the Goods are stored separately or marked so that they may be readily identified as the property of Vicon;

(b) keep the Goods in its possession and control and intact and in a good state of repair and condition (fair wear and tear only excepted);

(c) not remove the Goods from the location to which they have been delivered;

(d) keep the Goods free from any charge, pledge, lien or other encumbrance and from any distress, execution or other legal process;

(e) if requested by Vicon immediately inform Vicon of the precise location of the Goods and provide Vicon with access to the Goods at all times on reasonable notice;

(f) Authorize Vicon to file a UCC-1 Financing Statement with the appropriate governmental authority for informational purposes and such other documents as Vicon may reasonably request to preserve its rights to the goods; and

(g) not sell, assign, hire or let the Goods or any interest in them.

8.3 If the Customer is in breach of any of these Terms or any other terms forming part of the contract between it and Vicon, or if prior to payment in full for the Goods an Insolvency Event occurs in relation to the Customer, Vicon is authorized (without prejudice to any other rights available to it) to enter the Customer's premises (and where Goods are located other than at the Customer's premises, the Customer shall ensure that Vicon is authorized to access those other premises) and remove the Goods and take whatever steps are reasonably necessary to effect such entry and removal.

8.4 So long as title in the Goods remains with Vicon, Vicon is authorized to enter the Customer's premises (or other premises where the Goods are located) on reasonable notice for the purpose of ensuring that the provisions of clause 8.2 are being complied with.

8.5 If Vicon exercises its right under this clause 8 to recover the Goods, Vicon shall repay to the Customer that part of the Price already paid by the Customer to Vicon less:

(a) the Non-refundable Deposit;

(b) all costs incurred by Vicon in recovering possession of the Goods; and

(c) any depreciation in the value of the Goods (arising for whatever reason) occurring after delivery of the Goods to the Customer.

9. Software

9.1 If the Products supplied include Software, that Software shall be licensed to the Customer in accordance with the license in this clause.

9.2 Subject to the payment of all amounts due under these Terms, Vicon grants the Customer a non-exclusive, perpetual, terminable license to use the Software listed in the Acceptance, in accordance with all user documentation which is provided with the Software (including for the avoidance of doubt any software license agreement supplied with the Software) and in accordance with these Terms ("**Software License**").

9.3 The Customer may not:

(a) loan, rent, lease or license the Software or any copy of it;

(b) reverse engineer or decompile the Software except to the extent permitted by applicable law notwithstanding a contractual prohibition; or

(c) sublicense the Software.

9.4 In respect of all Products other than IMU Goods and the Embedded Software:

(a) Notwithstanding anything else in these Terms, the Customer may only own the media on which any Computer Software is supplied and may only retain this media on termination of the Software License if the Computer Software is erased. Vicon shall at all times retain ownership of the Computer Software and all intellectual property rights therein.

(b) The Software License permits the Customer to install one copy only of each item of Computer Software on a network server and the Computer Software may only be accessed and used by the number of concurrent users set out in the Acceptance. The Computer Software may only be accessed and used at the Customer's premises nominated in the Acceptance. The Customer may make one back-up copy of such Software, provided that such copy shall be subject to these Terms.

(c) The Customer may assign all its rights to use the Computer Software to another person or entity provided that such assignment occurs with the transfer of Goods on which such Computer Software is installed and the Customer: (i) transfers that part of the Software License relating to the Computer Software, the physical medium on which such Computer Software is made available, user documentation and all copies of such Computer Software and user documentation; (ii) retains no copies of the Computer Software, including copies stored on a device; (iii) remains liable under these Terms for any breach of its terms by the assignee; and (iv) notifies Vicon in writing that the assignment has taken place and tells Vicon the identity of the assignee.

(d) Where Third Party Software is supplied by Vicon for use with the Goods:

(i) Vicon shall procure for the Customer a license to use that Third Party Software;

(ii) that use will be subject to the terms of the relevant Third Party Software License;

(iii) The Third Party Software Licenses are provided with the Third Party Software at Delivery and copies are also available from Vicon on request; and

(iv) Vicon gives no representations or warranties or other commitments in relation to the Third Party Software and the Customer shall have a direct relationship with the licensor of that software.

9.5 In respect of IMU Goods and Embedded Software only, the Customer shall comply with any notice issued by Vicon regarding the Customer's use of the Products which is necessary or appropriate to ensure compliance with the terms of any Third Party Software Licenses.

9.6 The Software License automatically terminates if the Customer fails to comply with any provision of these Terms or an Insolvency Event occurs in relation to the Customer.

9.7 The Customer is entirely responsible for its use of the Products and any App and for anyone it permits or allows to use Products and any App. The Customer shall be liable to Vicon for the actions or omissions of such persons as if they were the actions or omissions of the Customer (including, without limitation, any breach of an end user license agreement for any App) and, without prejudice to and in addition to any other remedies that Vicon may have, the Customer hereby agrees and undertakes to indemnify Vicon for any losses, claims, demands, liabilities and expenses of whatever nature (including, without limitation, legal fees reasonably and properly incurred) arising directly or indirectly out of a breach by the Customer of its obligations contained in this clause.

9.8 The Products and any App are not intended to replace the clinical skill of a medical or sports practitioner or his/her independent professional judgment of individual clinical circumstances to make a diagnosis and/or determine treatment. The Products and any App should only be used by those who have been appropriately trained in its operation, functions, capabilities and limitations, and in any event should not be relied upon, by itself, as the sole method of making any diagnosis or determining any treatment.

9.9 Except as expressly set out in these Terms, no conditions, warranties or other terms apply to the Software or to anything supplied or provided by Vicon under these Terms and all implied conditions, warranties or other terms (including without limitation any implied terms as to merchantability or fitness for purpose) are, to the fullest extent permitted by law, hereby excluded.

9.10 Except as provided for in clauses 9.7, 9.8 and 14.7, the use of any App shall be subject to a separate end user license agreement and no conditions, warranties or other terms in these Terms apply to the App.

10. Import and Export Licenses

10.1 The Customer is responsible for obtaining and shall apply for all import licenses and any other permits required by the authorities of the country in which the Products are to be located or used and any other country through or over which the Products are to be transported following export from the US. The Customer indemnifies Vicon against any loss, damage or expense (including reasonable legal costs) which Vicon incurs or becomes liable because Products are shipped or carried without valid import licenses or other requisite permits.

10.2 Vicon shall not be liable for any loss arising from any delay in the Customer obtaining all relevant import licenses or other requisite permits.

10.3 Vicon shall apply for any appropriate export licenses required by the United States authorities in relation to the export of the Products. Delivery of the Products shall be conditional on such license(s) being issued. Vicon shall have no liability in respect of any delay in obtaining or failure to obtain such license(s). In circumstances where it has not proved possible to obtain the required export license(s) within a reasonable time. Vicon shall repay to the Customer the Deposit less any costs or expenses incurred by Vicon in attempting to obtain any export license.

11. Inspection of Products on Arrival

11.1 The Customer shall inspect the Products on arrival at the Customer's premises and, within 7 days of arrival, notify Vicon in writing, of any damage to the Products and any discrepancy between the Products and items listed in the Acceptance, which is or should be apparent from inspection. If there is such damage or discrepancy, Vicon shall be given a reasonable opportunity to inspect the Products concerned.

11.2 Subject to clause 13.1, Vicon shall not be liable in respect of any damage or discrepancy which arose as a result of or is the consequence of the carriage of the Products. In the case of types of damage or discrepancy which would be a breach of the warranties in clause 14, provided that the Customer has: (i) notified Vicon of that damage or discrepancy within 7 days of arrival of the Products; and (ii) provided Vicon with sufficient details of the damage and discrepancy, then Vicon shall either, at its option, repair or replace (without charge) the affected Products in accordance with clause 14. This shall be Vicon's sole responsibility and Customer's sole remedy in the event of damage or discrepancy on arrival at the Customers premises.

12. Installation and Customer Training

12.1 If the parties have agreed in writing that Vicon (or its sub-contractor) is to provide Installation, the Customer shall, at its own expense:

(a) properly prepare the site and provide all appropriate facilities (including but not limited to power, air conditioning, lighting, permits, licenses and approvals) to enable Installation to be carried out as expeditiously as practicable;

(b) comply with all reasonable requirements of Vicon (or its sub-contractor) in relation to the Installation;

(c) ensure that the site for installation is safe in all respects;

(d) provide whatever is required by Vicon (or its sub-contractor), including labor, to uncrate and move the Goods into their required location; and

(e) ensure that Vicon (or its sub-contractor) shall have full uninterrupted access to the site at all times in providing the Installation.

12.2 If any certificates or other approvals by governmental and/or other authorities are required for the Installation these shall be obtained by the Customer without delay at the Customer's expense, regardless of who is carrying out the Installation.

12.3 If Installation is carried out by (or on behalf of) Vicon, upon completion of the Installation, Vicon or its sub-contractor shall issue to the Customer an Installation Certificate.

12.4 In cases where the parties have agreed in writing that Vicon is to provide Customer Training, the Customer shall ensure that relevant personnel are available for training as required by Vicon.

12.5 If the Customer fails to comply with its obligations under this clause and as a result Vicon incurs costs or suffers delays or additional work, the cost of such delays or additional work shall be invoiced by Vicon to the Customer and paid by the Customer within 30 days of invoice.

12.6 If during Installation Vicon becomes aware of any safety, building or electrical codes or regulations which are applicable to such Installation but which were not specified in the Order in accordance with clause 3.6, Vicon may, at its sole discretion, either continue with the Installation subject to payment by the Customer of an additional amount which is determined by Vicon to constitute appropriate compensation for the additional work involved in Installation, or cancel the relevant contract. If the contract is cancelled, Customer shall pay to Vicon 20% of the Price, plus all reasonable costs incurred by Vicon, prior to the cancellation in connection with the design, manufacture, supply and Installation of the Products, in excess of that 20%. Where any amounts have been paid in advance, such as via Deposit, these payments may be offset against any refund of that amount as a result of the cancellation.

12.7 The Customer shall indemnify Vicon against any loss, damage or expense (including reasonable legal costs) which Vicon incurs or becomes liable for as a result of any failure by the Customer to comply with any its obligations under this clause 12 or under these Terms generally. For the avoidance of doubt, Vicon shall not be in breach of any of its obligations under these Terms to the extent that any failure to deliver, or delay in delivering the Products or Services is caused by any failure by the Customer to comply with any its obligations under this clause 12 or elsewhere.

13. Limitation of Liability

13.1 Nothing in these Terms shall be deemed to exclude or limit, or attempt to exclude or limit, the liability of either party:

(a) for death or personal injury resulting from the negligence of its employees or officers;

(b) for fraud or fraudulent misrepresentations;

or

(c) any liability which cannot under applicable law be excluded or limited by agreement.

13.2 Subject to clause 13.1, in no circumstances shall Vicon be liable under or in relation to these Terms or their subject matter (whether such liability arises due to negligence, breach of contract, misrepresentation or for any other reason) for any (whether direct or indirect):

(a) loss of profits;

(b) loss of sales;

(c) loss of opportunity or contract;

(d) loss of data;

(e) loss of savings, discount or rebate (whether actual or anticipated);

(f) loss of use of:

(i) the Goods; or

(ii) the Software;

(iii) the App; or

(iv) any other software;

(g) indirect or consequential loss or damage; or

(h) loss of goodwill or harm to reputation;

whether Vicon is advised of the possibility of any such losses being incurred or not and whether any such losses are reasonably foreseeable or otherwise. For the purposes of this clause the term "loss" includes a partial loss or reduction in value as well as a complete or total loss.

13.3 Subject to clauses 13.1 and 13.2, Vicon's **total liability** arising from or in connection with these Terms and in relation to anything which Vicon may have done or not done in connection with these Terms (and whether the liability arises because of breach of contract, negligence or for any other reason) including in respect of the indemnity at clause 16.3 and any other matter for which a specific indemnity is given shall be limited to the Price paid or payable by the Customer.

13.4 Vicon will not be liable for breach of any of these Terms (including breach of any warranty) to the extent that the breach concerned arises from or as a consequence of:

(a) use of any Products other than in accordance with normal operating procedures as described in the manuals or as otherwise notified to the Customer by Vicon;

(b) any alterations to any Products made by anyone other than Vicon or someone authorized by Vicon;

(c) any problem with the computer or equipment on which the Computer Software is installed or the Goods used;

(d) any abnormal or incorrect operating conditions;

(e) any other hardware, equipment or software being used with or in relation to any Products, unless this use has been expressly approved by Vicon;

(f) the carriage of the Products;

(g) fair wear and tear, willful damage, negligence or could be expected to arise in the normal course of use of the Products; or

(h) the Customer using the Goods after notifying Vicon that they do not comply with the warranties contained in clause 11

(i) the Customer's failure to take reasonable steps to mitigate any damages caused by the breach of these Terms.

14. Warranties

14.1 Subject to clause 13.4 and the remainder of this clause 14, Vicon warrants that:

(a) all Services will be provided with reasonable skill and care;

(b) the Goods shall, during the Warranty Period (unless an alternative period is agreed in writing between the parties) be free from material defects in design, materials and workmanship under normal conditions of use. In these Terms, the **"Warranty Period"** shall be the period commencing on Delivery and ending 12 months from, the earlier of:

(i) issue of the Installation Certificate; or

(ii) 2 months after Delivery.

(c) the Computer Software shall, during the Warranty Period (unless an alternative period is agreed in writing between the parties), conform in all material respects to the descriptions contained in the user documentation supplied with that Computer Software, provided that such Computer Software is used in accordance with that documentation and on appropriate hardware.

14.2 If any of the warranties in clause 14.1 is breached, the Customer will notify Vicon in writing as soon as is reasonably possible giving sufficient information as to the nature and extent of the breach and (where relevant) the uses to which the Products have been put prior to the problem arising. The Customer must give Vicon a reasonable time to fix the problem and (if necessary) to re-perform any relevant Services or repair or replace the relevant Product (together a **"Remedy"**). This will be done without any additional charge to the Customer, except that in the case of Goods, Vicon may require the Customer to return the Goods, at its own expense to Vicon's premises (or such other address as nominated by Vicon) with a full description of the alleged defect which is causing the breach. If Vicon is able to provide a Remedy within a reasonable time, Vicon will have no other obligations or liability in relation to the breach in question. If Vicon is unable or unwilling to supply a Remedy within a reasonable time, or Vicon does not think that it is a sensible way to deal with the problem, then Vicon may:

(a) in the case of a breach of clause 14.1(a), refund to the Customer the amounts actually paid by the Customer to Vicon in relation to the Services which are the subject of the breach; and

(b) in the case of a breach of clauses 14.1(b) and/or 14.1(c), take back the Products which are the subject of the breach and refund to the Customer the amounts actually paid by the Customer to Vicon in relation to those Products,

and the provisions of this clause 14.2 shall be Vicon's sole responsibility and Customer's sole remedy in the event of breach of the warranties in clause 14.1. THE WARRANTY CONTAINED IN CLAUSE 14 SUPERSEDES AND REPLACES (TO THE FULLEST EXTENT PERMITTED BY LAW) ALL OTHER TERMS, CONDITIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED AND WHETHER ARISING BY STATUTE OR OTHERWISE RELATING TO THE CAPACITY, QUALITY, SATISFACTORY NATURE, DESCRIPTION, STATE OR CONDITION OF THE PRODUCTS AND SERVICES OR TO THEIR MERCHANTABILITY OR SUITABILITY FOR THE PARTICULAR PURPOSE. Where a breach of the warranties in clause 14.1 relates to a portion of the relevant Products only and other elements supplied are capable of use separately without material detriment to the Customer, then Vicon may take back (and refund in respect of) that affected portion.

14.3 Where Products are replaced by Vicon in accordance with this clause, the replaced Products (including any parts) shall become the property of Vicon again and these Terms (including the warranties in clause 14.1) shall apply to the new Products (including any parts).

14.4 Except as expressly set out in these Terms, no conditions, warranties or other terms apply to any Products and Services or other goods or services supplied or to be supplied by Vicon. Subject to clause 13.1, no implied conditions, warranties or other terms apply (including any implied terms as to quality, fitness for purpose or conformance with description). Customer is responsible for deciding whether or not the Products are suitable for the Customer's purpose and Vicon will not be responsible for this.

14.5 In relation to Software and the App, Vicon does not represent or warrant that the Software or any App or its operation will be entirely free from errors.

14.6 If Vicon carries out any repair or replacement to the Goods and/or the Software as specified in clause 14.1(b)(i) but in circumstances where the relevant defect or malfunction has been caused by an accident, by the improper or abnormal use of the Products by the Customer, or for one of the reasons that Vicon is not responsible under clause 13.4 or otherwise, the Customer shall pay for such repair or replacement (including the cost of any replacement Goods or Software) at Vicon's then current rates, within 30 days of Vicon issuing an invoice for that work.

14.7 In relation to Third Party Software (which is not Embedded Software), any warranty claim against the licensor of that software shall be dealt with by the Customer and the licensor under the relevant Third Party Software License

14.8 Customer shall not transmit or deliver to Vicon (including loading or storing on any Vicon server, website or system) any data in any form that Customer does not have the legal right to transmit or deliver to Vicon. Further, Customer shall not transmit or deliver to Vicon any data that constitutes "protected health information" as that term is defined under the Health Insurance Portability and Accountability Act, the Privacy Rules enacted thereunder (collectively, "HIPAA"), or any similar state or federal laws. Customer acknowledges that Vicon has disclosed that it is not a "covered entity" or "business associate" under HIPAA, and does not provide the safeguards for handling PHI required under HIPAA.

15. Withholding or Suspension

15.1 Without prejudice to any other provision of these Terms, Vicon may withhold or suspend Delivery of the Products on the occurrence, or (in Vicon's reasonable determination) the imminent occurrence, of an Insolvency Event in relation to the Customer.

15.2 Such withholding or suspension by Vicon in accordance with clause 15.1 is not a breach of these Terms and may continue until Vicon has received or is satisfied that it shall receive payment in full for the Products or that the Insolvency Event no longer exists.

16. Intellectual Property Rights

16.1 Vicon (and its licensors) reserve and retain full ownership of and interest in all inventions, designs, copyrights, processes and any other Intellectual Property Rights of whatever nature relevant to the Products and any deliverable provided from or used by Vicon with the Services. The Intellectual Property Rights in all drawings, specifications and manuals created or issued by or on behalf of Vicon belong to Vicon (or its licensors) and are considered by Vicon to be confidential. The Customer may not reproduce or disclose these drawings, specifications and manuals to anyone without Vicon's prior written consent. This obligation of confidentiality shall remain in force in perpetuity.

16.2 If any of the Products have been designed, manufactured or processed in compliance with the Customer's specification, the Customer indemnifies Vicon against any loss, damage or expense (including reasonable legal costs) which Vicon incurs or becomes liable for as a result of any claim that the Customer's specifications, or the Products (to the extent that they have been designed, manufactured or processed in compliance with that specification) infringe the Intellectual Property Rights of any third party. The Customer shall inform Vicon promptly in the event of it receiving a claim or otherwise becoming aware of any allegation by a third party that use of the Products infringes the rights of such third party. The Customer shall make no admission in respect of such claims.

16.3 Subject to clause 16.4 below, Vicon shall indemnify Customer against any loss, damage, or expense (including reasonable legal costs) which Customer incurs or becomes liable for as a result of any claim that the possession or use by Customer of any Products supplied by Vicon infringes the Intellectual Property Rights of any third party in the United States, up to a maximum of the sum paid by the Customer to Vicon for such Products. Vicon's obligation to indemnify the Customer is conditional upon the Customer:

(a) at Vicon's request and expense, allowing Vicon to conduct the defense of the claim (including settlement);

(b) making no admission in relation to the claim without the prior consent of Vicon;

(c) notifying Vicon as soon as is reasonably practicable of the claim setting out full details thereof;

(d) taking all reasonable steps to minimize the losses that may be incurred by it or by any third party as a result of the claim; and

(e) at the expense of Vicon, co-operating and assisting to a reasonable extent with Vicon's defense of the claim.

16.4 The indemnity in clause 16.3 will not apply to the extent that the relevant infringement results from the Customer (or anyone the Customer permits to use the Products or Services):

(a) modifying, altering, adapting, disassembling or reverse engineering any relevant Products without the consent of Vicon;

(b) failing to use items which update or replace the Products the use of which would have avoided the infringement;

(c) failing to comply with the terms of any Third Party Software License;

(d) using information, specifications, documents, facilities or items supplied by Customer to Vicon;

(e) failing to take commercially reasonable steps under the circumstances to avoid or limit the infringing activity and to avoid infringement or to mitigate any damages for which it seeks indemnity under clause 16.3.

and the Customer shall indemnify Vicon against all losses, damages, liability, costs and expenses (including reasonable legal fees) incurred by Vicon in connection with any claim arising from such circumstances.

17. Marketing and Advertising

17.1 The Customer grants to Vicon a non-exclusive irrevocable and perpetual license to use the Customer's name (or fictitious business name or tradename) and logo in Vicon's marketing and promotional materials (including on its website).

18. Force Majeure

18.1 Vicon shall not be liable for any delay or failure in performing any of its obligations under these Terms to the extent that such delay or failure is caused by circumstances outside the reasonable control of Vicon (including any delay caused by any act or default of the Customer).

18.2 If, as a result of circumstances outside the reasonable control of Vicon, Vicon is only able to deliver part of the Products or Services, the Customer shall pay to Vicon the proportion of the Price appropriate to the Products or Services which have been delivered or performed.

18.3 If, as a result of circumstances outside the reasonable control of Vicon, Vicon is unable to deliver the Products or Services (or any part thereof) or is delayed in or prevented from doing so for a in excess of 60 days, the parties shall renegotiate the Contract to achieve, as nearly as possible, the original commercial intent.

19. Termination

19.1 Notwithstanding any other remedies available to it under these Terms, Vicon may terminate an Order or any other Contract which it has with a Customer at any time by giving notice in writing to the Customer if:

(a) the Customer commits a material breach of these Terms and such breach is not remediable;

(b) the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;

(c) the Customer fails to pay any amount due under the Contract on the due date; or

(d) the Customer suffers an Insolvency Event.

19.2 Termination or expiration of the Contract shall not affect any accrued rights and liabilities of Vicon at any time up to the date of termination.

20. Assignment

20.1 Subject to clause 20.2 and except as set out in clause 9.4(c), the Customer may not assign, transfer or otherwise deal with its rights and/or obligations under these Terms without the prior written consent of Vicon. Vicon may assign its rights and/or obligations under these Terms without the consent of the Customer.

20.2 If the Customer wishes to lease or finance the purchase or licensing of the Products through a third party then Vicon may (at its sole discretion) allow the Customer to transfer the obligations of payment contained in clause 6 to such third party with the prior written approval of Vicon in which event the title to the Goods shall pass to the transferee upon receipt by Vicon in full of all amounts due and payable under these Terms.

21. Severability, Waiver, Entire Agreement and Third Party Rights

21.1 If any provision of these Terms is held for any reason to be ineffective or unenforceable, this shall not affect the validity or enforceability of (i) any other provision of these Terms; or (ii) these Terms as a whole. If any ineffective or unenforceable provision would be valid or enforceable if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the reasonable intent of the parties.

21.2 If a party: (i) delays in enforcing its rights under these Terms (whether in relation to a breach by the other party or otherwise); or (ii) agrees not to enforce its rights, or to delay doing so, then unless the party concerned expressly agrees otherwise, that delay or agreement shall not be treated as waiving the rights of the party concerned. Any waiver of a party's rights in relation to a particular breach of these Terms shall not operate as a waiver of any subsequent breach. No right, power or remedy to which either party is entitled under this Contract is exclusive of any other right, power or remedy available to that party.

21.3 These Terms and any documents entered into pursuant to them, constitute the entire agreement in respect of its subject matter. Subject to clause 13.1, each party acknowledges that, in entering into these Terms, it has not relied on any statement or representation made by the other party that has not been set out in these Terms, and agrees that it will not try to rely on any representation made by the other party except to the extent that the representation concerned is contained in these Terms.

21.4 The terms of this Agreement are not intended to be for the benefit of any third party, and there are not intended or third party beneficiaries of this Agreement.

22. Foreign Corrupt Practices Act

22.1 Each party shall comply with all applicable anti-bribery, including but not limited to the Foreign Corrupt Practices Act, in addition to applicable local Laws.

22.2 Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 22.

23. Distributors

23.1 If the Customer is a Distributor, then this clause 23 will apply to that Customer in addition to the other Terms and any additional agreement entered into between Vicon and the Distributor. This clause will only apply to Distributors. If there is any inconsistency between this clause 23 and the remainder of the Terms, then this clause shall prevail to the extent of the inconsistency.

23.2 Clause 9 (Software) will not apply to the Distributor, but the Distributor shall procure that it imposes equivalent obligations on the ultimate end user of the Products.

23.3 The following additional clauses will apply to the Distributor:

(a) If Customer Training is to be provided by Vicon, the Distributor shall nominate an end-user to whom Vicon is to supply Customer Training as a sub-contractor of the Distributor.

(b) if Installation is to be provided by Vicon, the Distributor shall inform Vicon of the location of the end-user's premises at which Installation is to take place, and Vicon shall carry out such Installation as a sub-contractor of the Distributor. An Installation Certificate shall be issued by Vicon to the Distributor.

(c) if an L C Facility is required, this shall be established by the Distributor.

(d) Vicon grants the Distributor a non-exclusive non-transferable limited license to distribute the Software to run in conjunction with the Goods which it resells to end-users. The Distributor shall ensure that:

(i) each end-user enters into the Vicon Software License Agreement (" **VSLA**") with Vicon before using the Software. A copy of the VSLA is available from Vicon upon request, and is also provided with the Products when they are Delivered;

(ii) the VSLA is enforceable against the end-user under local law; and

(iii) Products are provided to end-users with no greater representations and warranties about the performance of those Products than set out in the VSLA. Nothing in this sentence shall prevent or restrict the Distributor providing additional support services or add-ons in connection with the Products, provided that in all cases the Distributor does not give or enter into any express or implied condition, warranty or other term that imposes or purports to impose any liability on Vicon in relation to the Products.

(e) the Distributor indemnifies Vicon against any loss, damage or expense (including reasonable legal costs) which Vicon incurs or becomes liable for as a result of:

(i) any claim by an end-user that has been provided with the Products by the Distributor; and

(ii) any claim by a third party as a result of the actions of an end user that has been provided with the Products by the Distributor,

save in respect of claims arising as a result of a breach of the warranties set out in clause 14.

(f) Vicon may, in its absolute discretion, permit the Distributor to sell the Products to an end-user prior to receipt by Vicon of payment in full of the Price, provided that:

(i) such permission is in the form of a written notice to the Distributor, signed by Vicon;

(ii) title to the Goods shall not pass to the end-user until the Distributor has received payment in full of all monies owing from the end-user; and

(iii) the Distributor incorporates a term equivalent to clause 8.2(c) into its agreement with the end-user, and that term permits Vicon to enter the end-user's premises and remove the Products.

and in such cases, clauses 8.2(b), 8.2(c) and 8.2(e) will not apply to the Distributor.

24. Equitable Relief

The Customer recognizes that any breach or threatened breach of these Terms may cause Vicon irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to Vicon, the Customer acknowledges and agrees that Vicon is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

25. Applicable Laws

25.1 These Terms and any dispute or claim (including non-contractual disputes and claims) arising out of or in connection with them shall be governed by and construed in accordance with the laws of the State of California. The parties submit to exclusive jurisdiction of the state and federal courts located in Los Angeles County, California. Notwithstanding the submission to the exclusive jurisdiction, Vicon may bring proceedings in the courts of any other state which may have jurisdiction for reasons other than the parties' choice, for the purpose of seeking:

(a) an injunction, order or other non-monetary relief (or its equivalent in such other state); and/or

(b) any relief or remedy which, if it (or its equivalent) were granted by the federal or state courts located in Los Angeles County, California, would not be enforceable in such other state.

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