

# TERMS & CONDITIONS

The following VISTA Satellite Communications, Inc. ("VISTA") Terms & Conditions apply to bookings of occasional and short-term C-Band & KU-Band, analog and digitally compressed satellite transponders ("Capacity"), as well as other transmission, productions and special event services provided by VISTA (collectively, the "VISTA Services").

These Terms & Conditions reflect those most frequently used by VISTA, and additional terms and conditions may be applicable in certain circumstances. VISTA retains the right to change or modify any or all of these Terms and Conditions at any time in its sole discretion. VISTA's customers (hereinafter referred to as either "Customer(s)" or "User(s)") should inquire if these Terms and Conditions are still applicable at the time they make an inquiry or place an order.

## **1. USAGE**

The minimum usage period for any Capacity service is 15-minute increments. For all other VISTA services, the minimum usage period will vary according to the type of event. Contact VISTA to confirm which standards apply.

Customer's use of the Capacity does not convey any title of any kind with respect to the satellite or the transponder to the Customer.

## **2. INQUIRIES**

The Customer may contact VISTA via telephone or in writing to request a booking and/or make an "Inquiry".

Inquiries must be confirmed by the Customer as binding at least 72 hours prior to the beginning of the scheduled service. If the Customer does not confirm within 72 hours, VISTA reserves the right to cancel the Inquiry.

Inquiries are held open until one of the following events occur:

- a) Customer converts the Inquiry to a firm order; or
- b) An Inquiry is "Challenged" (see below).

In addition to the above, if the relevant satellite carrier or vendor (owner or sub-lessor) has more restrictive hold or "Challenge" provisions, the carrier's or vendor's standards will apply. Contact VISTA to confirm which standards apply.

### **3. APPROXIMATE-OUT & GOODNIGHTS**

VISTA allows Approximate Out times (“Approx-Out”) on Capacity booked by its Customers for services that exceed 60 minutes in length.

When booking services in excess of 60 minutes, a customer may reserve a block of time of either 15 or 30 minutes immediately following the service term (the “Approx-Out Option”). If the service is terminated within the service term, no charge shall be made for the Approx-Out Option. If the service uses any portion of the Approx-Out Option period, the Customer shall be charged for the entire Approx-Out Option period in accordance with the Rate Card. (For example, if a thirty-minute approx out is ordered and only 10 minutes is used – a full thirty-minute time period will be charged.)

All Approx-Outs must be "Goodnighted" in real time with **both** the relevant carrier and with VISTA immediately when service is completed. To “Goodnight” with VISTA, leave a voicemail at 954-838-0900 (Option #3), and include:

- Your name and company
- Date of service and time of goodnight
- Satellite and transponder used
- Who took your goodnight at the carrier

The Goodnight registered with the carrier establishes the time that will be invoiced. Failure to goodnight an “Approx-Out” to both the carrier and VISTA immediately upon the completion of service will result in imposition of full charges for the approximate time without regard to the actual time used.

VISTA will Goodnight all transmission services and space segment when both services are booked by VISTA.

### **4. CANCELLATIONS**

All Inquiries cancelled at least 14 days prior to the scheduled date are not subject to a penalty or charge, unless:

- a) The service was confirmed after being Challenged (See below);
- b) The service was acquired by Challenge (See below), or
- c) The services provided by VISTA were recurring services contemplated by a specifically negotiated contract between the Customer and VISTA.

If the cancellation by the Customer is not made at least 14 days prior to the event, or in any of the situations identified in (a), (b) or (c) in the prior paragraph, the Customer will be responsible for 100% of the charges which would have been incurred had the event not been cancelled.

In addition to the above, if the relevant satellite carrier or vendor (owner or sub-lessor) has more restrictive cancellation provisions, the carrier's or vendor's standards will apply. Contact VISTA to confirm which standards apply.

## **5. CHALLENGES**

If another potential User "Challenges" a time segment, VISTA will notify the Customer holding an Inquiry for that segment. The Customer must advise VISTA within 24 hours of that notice that the Customer is confirming the Inquiry, which makes it into a binding commitment by the Customer. If the Customer does not confirm within that time or if the Customer specifies that it is releasing its Inquiry, the Inquiry will be considered released.

If the original Customer's Inquiry is released, the User who made the Challenge will be considered to have made a binding commitment with respect to that time segment. Any change to or cancellation of the services will be treated as a cancellation subject to 100% charge to the User.

## **6. TEST TIME**

When requested by the Customer, VISTA will provide a reasonable amount of "Test Time" or "Setup Time" to the Customer prior to the scheduled event, if available. It should be noted that test time is provided as a courtesy and is not guaranteed.

## **7. PREEMPTION**

All services are subject to immediate preemption in the case of technical failure or force majeure. Additionally, VISTA and its Customers are governed by the policies of the relevant carrier and by other contractual commitments that may be in place when a Customer commits to service. VISTA makes reasonable business efforts to avoid preempting services to its Customers; nonetheless, it retains the right to do so based on the Carrier's policies or other contractual commitments. Customers are urged to discuss the specific preemption policy when calling VISTA with an Inquiry or Challenge or when making a firm commitment.

## **8. REQUIREMENTS OF LAW & USE RESTRICTIONS**

Customers shall observe and comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations of the federal, state, county and municipal governments and of all other governmental entities having or claiming authority over or the right to regulate satellite communications.

Customer represents and warrants to VISTA that it has and shall continue to have all necessary contractual rights to comply with the provisions presented in this arrangement.

While most transmissions are allowed by most carriers, transmission of certain content is either prohibited or subject to restrictions by certain carriers. Customer shall comply with the usage policy of VISTA, the relevant carrier and with all applicable laws and regulations.

## **9. OUTAGE / INTERRUPTION CREDITS**

If there is an outage or service interruption (an "Outage") during a Customer's service, Customer may be entitled an "Outage Credit" based on the policy of the relevant carrier or vendor. Customer should be aware that the standards for what constitutes an Outage giving rise to an Outage Credit varies among vendors, carriers and among satellites and transponders. The Outage Credit, if any, given to a Customer will use the same formula as used by the relevant carrier or vendor and will only be given if and to the extent VISTA receives a similar credit for such outage.

VISTA shall not be liable for any failure of performance due to causes beyond its commercially reasonable control, including, but not limited to, equipment failure, sun outages, externally caused interference, irreparable satellite component failure, fires, strikes, labor unrest, embargoes, civil commotion, rationing or other order or requirements, acts of civil or military authorities, acts of God, the unavailability to VISTA of the facilities or services used to provide the Service, or other contingencies beyond the commercially reasonable control of VISTA.

## **10. LIMITATION OF LIABILITY**

No warranties, express, implied or statutory, including any warranty of merchantability or fitness for a particular purpose is made by VISTA with respect to any Capacity.

VISTA shall not be liable under any circumstances for any direct or indirect lost profits or other incidental, special, punitive, consequential or similar damages incurred by Customer (collectively, "consequential damages"), whether or not VISTA has been advised of the possibility of such damages by Customer. The term "consequential damages" includes, but is not limited to, cost of substitute services or facilities, loss of actual or anticipated revenues or profits, loss of business, customers or good will, downtime costs or damages and expenses arising out third party claims.

## **11. INDEPENDENT CONTRACTORS**

Customer and VISTA are independent contractors with respect to each other and nothing herein shall create any association, partnership, joint venture or agency relationship between them.

## **12. GENERAL -- IMPORTANT INFORMATION FOR CUSTOMERS**

In addition to the Terms & Conditions noted above, Customer should be aware that satellite carriers and certain vendors impose, both by contract and operating rules, a significant body of terms and conditions on users of their transponders, which apply to VISTA and Customer. VISTA's obligations to Customers will not exceed the corresponding obligations of the carrier to VISTA. Accordingly, VISTA cannot be responsible for any service disruptions or attendant damages that result from implementation of the relevant carrier's rules. Similarly, in situations where the carrier is by contract or rule absolved from responsibility or damages, VISTA will not be responsible for any disruption or attendant damages that result from any action or inaction of a carrier or from equipment failures.

Many of the satellite carriers' and vendors' contract provisions and rules are well known throughout the industry and it is Customer's responsibility to inquire and be informed of all such provisions and rules. The summary provided in these Terms and Conditions is for Customer's convenience and should not be relied on as being all-inclusive with respect to Customer's booking of any space segment through VISTA. VISTA will respond to specific questions from Customers with respect to applicable terms and conditions applicable to particular transponders.

## **13. GOVERNING LAW**

This arrangement and the Terms & Conditions herein, shall be governed, construed and enforced by and under the laws of the State of Florida. Should it be necessary to file a lawsuit to enforce the terms of this agreement, or which relates to or concerns this agreement, or the rights or obligations thereunder, venue and jurisdiction shall be restricted the Florida state court system in Broward County, Florida.

#### **14. PAYMENTS & OBLIGATIONS**

Unless other prior credit arrangements are made, payment is due prior to the service date. Acceptable forms of payment include checks, wire transfer or credit card.