

Terms & Conditions

BACKGROUND

- (A) AVI-SPL India Limited, a limited liability company incorporated and registered in India and whose registered office is at 4th Floor Rectangle 1 Commercial Complex D4 Saket New Delhi, India, (“**AVI-SPL**”), is a company that supplies audio video system design and integration and communication technology.
- (B) The Contract (including these Conditions) will form the basis of the agreement made between the Customer and AVI-SPL in relation to the Customer’s purchase of the Equipment.

1 Definitions

The following terms shall, when used in the Agreement, have the respective meanings set forth below:

“**Agreement**” means the Offer Sheet and these Terms and Conditions and the credit application. “**Buyer**” means the party identified as such in the Offer Sheet.

“**Company**” means AVI-SPL India Private Limited.

“**Equipment**” means all product,

Engineering Labour means associated engineering services – such as installation, design , programming etc.

Freight & associated expenses - this includes any freight charges, transit insurance, packing and other charges described on Company’s offer sheet.

“**Excusable Delay**” means any delay outside the control of Company.

“**Offer Sheet**” means a written document sent by Company to Buyer setting forth, among other things, the cost of the Equipment.

“**Prime Rate**” means the rate of interest, expressed as a percentage rate per annum, designated from time to time by the Reserve Bank of India (or its successor) as the reference rate then in effect for determining interest rates on Indian Rupees commercial loans in India

The quotation for the Equipment shall be firm for the period shown in the Offer Sheet, subject to withdrawal or change by the Company upon notice at any time prior to Buyer’s execution and delivery of such executed Offer Sheet to Company. The Terms and Conditions apply to all Offer Sheets by Company. The Terms and Conditions and any Offer Sheet shall only become binding upon the Company when the Offer Sheet and the Terms and Conditions are signed by the Buyer and accepted in writing by a duly authorized representative of the Company. Nothing herein shall be deemed to require Company to execute the Offer Sheet and Terms and Conditions. Upon the execution of the Offer Sheet and the Terms and Conditions by both parties, the Offer Sheet and the Terms and Conditions form and constitute the Agreement (as defined in the Terms and Conditions) between Company and Buyer.

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Entire Agreement

The Agreement contains the entire agreement between Company and Buyer and supersedes any previous agreement and/or communications, whether written or oral, between the Company and Buyer relating to the subject matter hereto. Any representation, affirmation of fact, course of prior dealings, promise or condition in connection herewith shall not bind the parties unless incorporated herein. Any modification, addition to, or waiver of any of the terms and conditions in the Agreement shall not be effective unless in writing and signed by an authorized representative of the Company. No failure by the Company, at any time to give notice of any breach of, or to require compliance with, any condition or provision of this Agreement shall prejudice or restrict the rights and powers of the Company hereunder or be deemed a waiver of any subsequent or continuing breach hereof.

3 Delivery

The Company will use its best efforts to deliver the Equipment in accordance with the Buyer requested delivery date subject to receipt of all necessary information from Buyer, however, shipping dates are approximate only. The Company shall not be liable for failures of or delays in manufacture, delivery or installation resulting from any cause or causes beyond its reasonable control and without its fault or negligence, or due to compliance with any government regulations. Any delay due to causes beyond Seller's reasonable control and without Seller's fault or negligence shall extend delivery dates to the extent caused thereby. Seller will use reasonable efforts to timely notify Buyer in the event of a delay. Buyer shall reimburse the Company for any additional expenses resulting from any Buyer-caused delay. In the event that delivery of the Equipment is delayed at the request of the Buyer and such Equipment has already been shipped to the Company, the Company will place the equipment in storage and invoice the Buyer the price of such Products, which will be promptly paid. The Company shall not be liable, and the Buyer shall have no right to cancel or rescind this Agreement, in the event of any delay due to causes beyond the Company's reasonable control and without the Company's fault or negligence, and the Buyer shall accept such delayed performance by the Company. The Buyer's receipt of the Equipment shall constitute a waiver of any claims for delay.

4 Payment Terms

The total price of the Equipment is set forth in the Offer Sheet and shall be paid as follows: 100% advance unless otherwise mentioned. Unless otherwise specified in the Offer Sheet, Equipment is sold F.O.B. origin-Buyer to pay all shipping charges. If this Agreement covers Equipment for more than one system, room, suite, or location, for purposes of payment in accordance with payment terms stated above each room, suite, or location shall be treated as if the subject of a separate sale and payment made accordingly. Payment terms are subject to change based upon Buyer's credit information.

Special Pandemic Billing Terms Clause: In response to the unprecedented Covid-19 pandemic, this special billing terms clause overrides all payment clauses under the following circumstances. We feel it prudent to underscore an important section of our billing terms with you. If the agreed upon installation date for your project is delayed, due to reasons beyond the control of AVI-SPL, then AVI-SPL will either:

- 1) Delay ordering the equipment or:
- 2) If the equipment is already ordered or received, AVI-SPL would invoice for the cost of the equipment that would be due on presentation of invoice, including any labor executed on the project to date for services such as Project Management, Project Engineering, Programming, Rack Fabrication or any onsite work that had been completed. This clause is applicable only if your project installation is delayed for reasons beyond AVI-SPL's control.

5 Buyer In Arrears Or Default

In the event Buyer is in arrears with any payment whatsoever due from it to the Company at any time whatever, whether in respect of the purchase price or any other amount due from the Buyer to the Company under the terms of this Agreement, the amount in arrears shall bear interest at a rate equal to the lesser of i) three (3) percent above the Prime Rate or ii) the maximum rate permitted by law, as from the date each amount falls due, pending actual payment thereof in full, without prejudice to any relief and remedy available to the Company. In the event of Buyer's default, the Company may exercise any right or remedy to which it is entitled pursuant to applicable law, up to and including removing, holding and selling the Equipment in accordance with applicable law, to satisfy in whole or in part Buyer's obligations.

6 Title, Risk of Loss

Title to the Equipment shall pass to Buyer upon delivery, subject to a purchase money security interest retained by the Company in the Equipment sold and the proceeds thereof until payment of all amounts then due to the Company. Risk of loss or damage to the Equipment or any part thereof shall pass to the Buyer upon delivery

7 Installation & Site Preparation

Installation of the Equipment (which shall include, field assembly, interconnection, Equipment calibration and checkout) is to be performed by the Company's trained technical employees. The Company shall be entitled to employ sub-contractors and/or agents to assist in or carry out, in whole or in part, the installation. In the event installation of Equipment by Company employees is prevented by trade unions, the Buyer shall arrange with the trade unions at its own expense to complete such installation. In such event, the Company is thereafter liable only for engineering supervision of installation.

The Company shall coordinate and cooperate with other trades to facilitate satisfactory work progress. If the Company's work in progress is impeded by other trades and/or contractors (excluding the Company's own subcontractors) or by scheduling delays due to the Buyer, time delays in the final installation of Equipment as well as additional charges including labor, travel and reasonable expenses may result and Buyer agrees to pay Company for any such additional charges.

The Buyer shall be responsible for preparing, at its own expense, the installation site in accordance with the Company's instructions, including the requirements specified in the Offer Sheet. In no event shall the Company be responsible for any high voltage electrical work, ceiling modifications, structural modifications, or mechanical systems modifications. Unless otherwise specified in the Offer Sheet, Buyer shall provide the Company with source code for any non- Company programmed remote control system required to be modified in order for the Equipment to be installed.

The Buyer shall provide the Company with reasonable access to the installation site before delivery, for purposes of determining site readiness for installation, and shall designate an individual on Buyer's staff to serve as a contact person for all site preparation and installation issues. Buyer shall provide the Company with free access to the installation site for the purpose of preparation for installation. The Buyer shall indemnify the Company and its respective officers, employees, agents, representatives, successors and assigns from and against any loss, damage or claim whatsoever sustained, suffered or incurred by any of them arising out of the condition of Buyer's storage and installation premises.

Buyer shall obtain at its expense and keep effective all permissions, licenses, and permits as required in connection with the installation and/or use of the Equipment and the premises where the Equipment shall be situated.

8 Warranty Service – Charges

Warranty service will be provided in accordance with the Company's standard service terms and such terms are incorporated herein. Where such terms are inconsistent with the terms herein, the terms herein will govern.

Unless otherwise specified in the Offer Sheet and the Company's standard service terms, the installation of the Equipment by Company carries a ninety-day warranty covering defects with respect to the Company's work in installing the Equipment.

Unless otherwise specified in the Offer Sheet and the Company's standard service terms, any part of the Equipment manufactured by Company carries a ninety-day warranty covering defects with respect to such Equipment. If any fault or defect with the Company's work in installing the Equipment is discovered by Buyer within such ninety-day period, the Company shall correct any and all such faults and defects. Components and materials making up the Equipment which are not manufactured by the Company will carry only any applicable manufacturers' warranty as set out in section 9, which may be greater than the ninety-day period listed above. The Company will attempt to reply to warranty service requests received from Buyer prior to 1:00 p.m. within forty- eight hours. In the event warranty service is provided outside of normal working hours, Buyer will be charged for any overtime hours in accordance with the Company's then standard policy on overtime rates. Normal working hours are 9 a.m. to 5 p.m., Monday through Friday, excluding statutory holidays.

In the event the Equipment is in any way misused or altered or is repaired by someone other than a representative of the Company, which within the sole judgment of the Company results in an adverse effect, including effects upon performance or reliability of the Equipment, the warranty set forth in Section 8a and the Company's obligations under Section 8a shall terminate without notice to Buyer.

9 Limitations of Warranty – Products Of Others

Unless otherwise specified, no warranty whatsoever is provided by the Company hereunder as to products manufactured by a person other than the Company, including but not limited to, cables, lamps, batteries, glassware, and evacuated devices (including valve, cathode ray tubes, and other special electron tubes).

The Company's sole obligation with respect to any material or part identified in the Offer Sheet, literature, or specifications furnished to the Buyer as manufactured or supplied by others, shall be to pass on to the Buyer the applicable manufacturer's warranties, if any.

10 Buyer Responsibilities

Buyer or any user of the Equipment shall (i) notify the Company as soon as any unusual operating peculiarity appears, and (ii) operate the Equipment in a safe and competent manner in strict compliance with established safety operating procedures and applicable laws and government regulations. In the event the Buyer or any user of the Equipment fails to comply with any of the above-stated conditions, the Company's warranties and its obligations hereunder shall terminate without notice to Buyer.

11 Limitation of Liability

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, IMPLIED OR STATUTORY. NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY. IN NO EVENT WILL THE COMPANY BE LIABLE FOR ANY DAMAGES, OTHER THAN THE ALLOCABLE CHARGES PAID BY THE BUYER FOR THE EQUIPMENT, WHETHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL, ARISING FROM ANY WARRANTY CLAIMS.

The Company shall not be liable for any and all losses, costs, damages, claims, actions or causes of action, interest, and all liabilities of whatsoever kind or nature, including without limitation claims for bodily injury, death or property damage sustained as a result of the ownership or use of the Equipment, excluding any claims, liabilities, losses or damages which have resulted from the negligence of the Company.

For greater certainty, and without limiting the generality of the foregoing, the Company shall not be liable for any defects in any Equipment which is not manufactured or supplied by the Company, nor shall the Company be liable for any defects in the installation of the Equipment where the defective installation arises as a result of a defect in any Equipment not manufactured or supplied by the Company.

The Buyer agrees to indemnify and hold harmless the Company from and against any and all losses, costs, damages, claims, actions or causes of action, interest, and all liabilities of whatsoever kind or nature, including fees and disbursements of legal counsel, related to or arising out of the negligence of Buyer in relation to the ownership or use of Equipment, provided that the Buyer will not be responsible to the Company for any claims, liabilities, losses or damages to the extent they have resulted from the negligence of the Company.

12 Taxes

Any and all taxes associated with the possession or ownership of the Equipment or excise, sales or similar taxes levied or based on the prices in this Agreement, or the Equipment being sold hereunder, shall be added to the selling prices set forth in the Offer Sheet and shall be paid at the time of invoice, unless the Buyer provides the Company with a tax exempt certificate acceptable to the taxing authorities.

13 Choice of Law And Severability

This Agreement shall be interpreted in accordance with and governed in all respects by the laws of the New Delhi jurisdiction and the Laws of India applicable therein. The courts of [India] shall have the exclusive jurisdiction to hear any matter arising in connection with the Agreement. Should any provision of this Agreement be found invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other provision contained herein. In the event of litigation relating to the subject matter of this Agreement, the non-prevailing party shall reimburse the prevailing party for all reasonable attorney fees and costs resulting therefrom. Note: If nothing is inserted in the supplied spaces, the applicable Province where the work is being performed applies.

14 Restocking Fees

In the event Buyer wishes to return any Equipment based on reasons outside of the Company's control, including but not limited to Buyer's cancellation or termination of this Agreement or any portion thereof for its convenience, Buyer agrees, in addition to any other amounts due under this Agreement, to reimburse the Company for any and all third party cancellation/restocking fees incurred by the Company.

15 Force Majeure

If a force majeure event prevents Company from performance of this Agreement for a period of thirty (30) or more days, Company shall have the right to terminate this Agreement, without any liability, upon written notice to Buyer. Termination shall be effective immediately unless Company specifies a specific effective termination date in its notice. In the event of termination under this clause, Company shall be paid for all Services performed by Company and all Equipment delivered to Buyer up to the effective date of termination (less amounts already paid by Buyer) plus, in the event Buyer is the Party claiming force majeure, Buyer shall reimburse Company for any and all third party restocking/cancellation fees incurred as per clause 14.

16 Assignment

Buyer may not assign this Agreement without the prior written consent of Company, which consent will not be unreasonably withheld. Any agreement purporting to assign Buyer's interest in this Agreement without the consent of Company shall be void and of no effect. This Agreement shall be binding upon, ensure to the benefit of and be enforceable by and against each party and the respective successors and permitted assigns of each party to this Agreement.

17 Termination

Buyer may, upon written notice to the Company, terminate this Agreement for its convenience provided, however, that the Company shall be paid for all Products delivered and Services performed up to the effective date of termination (less amounts already paid) plus reimbursed for any third party restocking/cancellation fees in accordance with Section 14.

18 Counterparts

The parties agree that this Agreement may be signed in counterparts and that receipt by facsimile or other electronic means of an executed copy of this Agreement shall constitute acceptable delivery.