

# Addendum to General Terms and Conditions - Managed Services

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The following terms supplement and modify the General Terms and Conditions as they apply to Seller's provision of managed services as more particularly described in this Addendum and the Managed Services Description (collectively, the "Services"). In the event of a conflict or inconsistency between the terms of this Addendum, the terms of the AVI-SPL Managed Services Addendum shall prevail to the extent of such conflict or inconsistency. Any capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the General Terms and Conditions.

## 1. Definitions

This Addendum contains defined terms and acronyms. The following definitions shall apply:

"Help Desk" means Seller's 24x7 global help desk as described in the Managed Services Description and this Addendum;

"Managed Services Description" means that portion of the Proposal and/or Statement of Work detailing the Services being purchased by Buyer;

"In-Warranty Hardware" means the covered equipment has an active, Manufacturer or third-party sponsored warranty program that can be exercised by the Buyer or by the Seller on behalf of the Buyer;

"Manufacturer" means an entity that produces hardware and / or software;

"Out-of-Warranty Hardware" means the covered equipment does not have an active, Manufacturer or third-party sponsored warranty program that can be exercised by the Buyer or by the Seller on behalf of the Buyer;

"Software Options" means optional functionality or features of software that may be selected at the time of purchase or later, and for which separate charges are assessed;

"Software Update" means software for which the Manufacturer has provided fixes or minor revisions to correct errors or defects in the existing operation of the software in accordance with the published product specifications, and which is limited to those updates that the Manufacturer generally provides to its customers at no charge. Software Updates do not include Software Upgrades or Software Options;

"Software Upgrade" means new releases of the software which contains enhancements improving the functionality or capabilities of the software, which Manufacturer may make available to its customers. Software Upgrades do not include Software Options; and

## 2. Services Description

The Services purchased by Buyer are detailed in the Managed Services Description.

## 3. Services Orders

Following Seller's order confirmation, Buyer agrees to provide a contact name, email address, and telephone number for the Services. Additionally, upon Seller request and where necessary for the fulfillment of Services, Buyer agrees to aid in the facilitation of site audits, provide Seller with network access to supported devices including subscribed third-party platforms and provide any technical or environmental information reasonably requested by Seller to monitor, maintain, and manage subscribed technologies. Standard response times and service level agreements are not guaranteed until such information is received by the Help Desk.

Any changes to the Services during the Services term will be documented by a change order and must be mutually executed by Buyer and Seller.

## 4. Services Term

This Entire Document and all information (including drawings, specifications and designs) presented by AVI-SPL LLC are the property of AVI-SPL LLC or its affiliate. Proprietary information provided to potential customers, clients or agents is for the sole purpose of demonstrating solutions delivery capabilities and shall be held in confidence. These Materials may not be copied, distributed or disclosed in any way without the sole written permission of an authorized representative of AVI-SPL. © Copyright AVI-SPL LLC. All Rights Reserved

The Services shall commence upon installation project completion or, for Stand-alone Services, upon Seller's confirmation of Buyer's order and completion of service initiation activities and shall continue for the term specified in the Proposal, unless earlier terminated. Installation projects containing multiple phases or being performed over extended periods may include multiple completion milestones / service commencement dates where Services commencement and related billing will be specified in the Proposal. The Services shall expire at the conclusion of the term specified in the Proposal, unless earlier terminated. Notwithstanding anything to the contrary in the Terms and Conditions, Seller reserves the right to postpone commencement of the Services, upon written notice to Buyer, in the event of any delays that prevent Seller from commencing the Services on the original commencement date. In such case, Seller will provide a new Services commencement date and the term of the Services will commence as of that date and continue for the term specified in the Proposal, notwithstanding any specific dates contained in the Agreement or any other purchase documents. Invoicing and payment will be adjusted to align with the new commencement date of the Services.

Buyer acknowledges: (1) Seller cannot fulfill Services until acceptable device inventory and network connectivity has been established; and (2) where Seller is unable to fulfill Service due to Buyer's delay in network connectivity or completion of customer responsibilities for a period exceeding ninety (90) days, the Services, including Service Term and applicable billing will commence regardless of implementation status. Acceptable forms of network connectivity and Buyer's responsibilities are defined in the Managed Services Description.

## 5. Services Availability

Help Desk remote support is available on a 24x7 basis.

Unless otherwise noted in the Managed Services Description, the Seller's field service technicians are available Monday through Friday from 8 AM to 5 PM local standard time, excluding local holidays.

Requirements to provide Services prior to or after the agreed upon hours of support must be agreed to by both Parties in advance and in writing and additional fees may apply.

## 6. Third Party Services

Seller may make third party services available to Buyer. Seller offers no guarantees and assumes no responsibility or liability of any kind with respect to third party services.

## 7. Software Updates, Upgrades, and Options

Unless otherwise agreed to, Software Updates, Upgrades, and Options are the responsibility of the Buyer.

In the event the Buyer has elected to have the Seller provision these services on its behalf, the Help Desk will assist with the provision of Software Updates, Upgrades, or Options when necessary to resolve a reported issue and when made available by the

Buyer or Manufacturer. Depending on Services elected, additional charges may apply for proactive management of Software Updates, Upgrades, or Options and when specialist or onsite support of these activities is requested or required. Seller will not be liable for any issues, damages or disruption arising from a Software Update, Upgrade, or Option released by a third party.

**8. Replacement Parts**

Standard program: In-Warranty Hardware will be eligible for repairs or replacement parts and the use of advanced replacement programs in accordance with the Manufacturer’s published warranty program.

Replaced parts will become the property of Seller or the Manufacturer. If replacement activity is performed by Buyer, the replaced parts must be returned per the Seller’s direction within five (5) business days of receipt of the replacement part; otherwise, Buyer will be invoiced the full list price for the replaced part.

Depending on Services elected, additional charges may apply for onsite support of In-Warranty Hardware parts repair or replacement. Out-of-Warranty Hardware or other parts repair or replacement deemed to be out-of-warranty will be considered billable activity.

Optional program: Buyers who elect an extended hardware warranty as a component of their Services are eligible for repairs or replacement parts for Out-of-Warranty Hardware. The inclusion of this coverage must be incorporated into the Services Description and is further described therein.

**9. Service Level Agreement**

Help Desk response: Seller’s Help Desk will provide an average speed of answer of sixty (60) seconds for support calls and will respond to new service requests made via monitoring alert, email or web portal to its Help Desk within four (4) hours with case assignment notification.

Upon the Help Desk’s determination that a dispatch is required, Seller’s field service technicians will provide the onsite response aligned to the service level elected in the Managed Services Description. The ability to meet this service level may be impacted by the Buyer’s room availability, the requirement for replacement parts, and the reliance on a Buyer’s third-party.

When a case is opened, the Help Desk will classify the case in accordance with the following incident priority classifications:

Priority 1 – core business or technology functionality unavailable resulting in work stoppage or significant impact to user experience

Priority 2 – a loss in functionality that compromises but does not prevent work completion or have significant impact to user experience

Priority 3 – issue that does not compromise work completion and therefore does not require immediate attention

Priority 4 – issue that can be scheduled such as a maintenance activity or scheduled replacement

**10. Services Exclusions**

Unless otherwise specified in the Managed Services Description, Services do not cover any of the following: (i) electrical work and / or in-house cabling; (ii) repair or replacement resulting from natural disaster, fire, accident, neglect, misuse, vandalism, water, corrosion, power surges, unconditioned or fluctuating power,

Buyer-provided network, or failure of the installation site to conform to Manufacturer specifications; or resulting from use other than intended purposes; or resulting from use with items not provided or approved by Seller; or resulting from the performance of maintenance or the attempted repair by persons other than Seller’s employees or persons authorized by Seller; (iii) repair or replacement excluded by or no longer covered by the Manufacturer’s repair and replacement program; (iv) furnishing supplies or accessories including consumables such as projection lamps, bulbs, filters, fuses, batteries and the labor to replace these items; (v) relocation services, or the addition or removal of items from or to other devices not furnished by Seller; (vi) damage to displays caused by screen burnout or image “burn-in”; and (vii) Services in connection with computer viruses or conflicts involving software that is not installed or introduced by Seller including coverage for Buyer-furnished product unless specifically listed as covered product.

Any modifications and / or additions made without Seller’s prior written approval are at Buyer’s sole risk and expense. If, in Seller’s reasonable discretion, such modifications and / or additions cause defects, disruptions and / or malfunction, and Buyer requests Seller’s assistance to correct the issue, Seller’s assistance will be billable at Seller’s then-current time and material rates.

**11. Charges and Payment Terms**

Unless otherwise specified in the Proposal, payment terms are net 30 days from Buyer’s receipt of invoice. Stand-alone Services will be billed upon Seller’s confirmation of Buyer’s order. Any services provided that are not included in the Services will be billable as incurred.

**12. Termination**

In the event of Buyer’s early termination for cause, a pro-rated refund will be issued to the Buyer for the unused term of Services, except Buyer shall remain liable for (i) all non-refundable third-party fees incurred by Seller for prepaid expenses and (ii) all services performed during Services term. Services may not be terminated for convenience.

Seller reserves the right to terminate or modify available Services at any time in its sole discretion; provided, however, that any such termination or modifications will not affect any Services already ordered by Buyer and confirmed by Seller prior to such termination or modifications except as mutually agreed by both Parties.

**13. Buyer Obligations**

(a) Buyer shall provide Seller with all information, cooperation, and access that Seller reasonably requests.

(b) If applicable, Buyer shall provide Seller personnel with timely access to service location.

(c) Buyer shall provide Seller’s personnel with adequate working conditions that comply with all applicable labor, safety and health laws and regulations.

(d) Buyer will provide the necessary utility services for use in accordance with the Manufacturer’s applicable published specifications.

(e) Buyer will be responsible for payment of parts and services provided by Seller that are not covered by the Services. Seller will obtain Buyer’s written consent prior to providing the parts and / or services, which will be billable at Seller’s then-current time and material rates.

(f) Seller strongly recommends that Buyer install and use a current, reputable anti-virus program in connection with any PC-based, open-architecture product, and that

Buyer regularly updates and runs such anti-virus program, especially in connection with the emergence of any new viruses.

(g) Buyer is solely responsible for backing up its data. Seller will not under any circumstances have a duty to back up Buyer’s data or to restore data that is lost in the course of Seller’s provision of Services, or otherwise. Seller will not be liable for the loss of Buyer’s data, whatever the reason for the loss, including without limitation as a result of Seller’s negligence. The preceding limitation applies to any cause of action, whether based in contract, tort, or any other theory.

**14. Solicitation**

At no time during the term of the Services or for one (1) year thereafter, will Buyer directly or indirectly offer employment to any Seller employees who performs Services on behalf of Seller without Seller’s express prior written consent. In the event that Buyer is in breach of this provision, Seller shall have the right to invoice Buyer, and Buyer agrees to pay, a sum equal to twelve (12) months’ salary in respect of the hired individual. The foregoing restrictions shall not apply to solicitation through any general recruitment advertisement in the normal course of business, without specifically targeting or approaching the other Seller’s employees.

**15. Warranty and Limitation of Liability**

SELLER WARRANTS FOR NINETY (90) DAYS FROM THE PERFORMANCE OF ANY SERVICES HEREUNDER THAT SUCH SERVICES SHALL BE PERFORMED IN A WORKMANLIKE MANNER CONSISTENT WITH GENERALLY ACCEPTED INDUSTRY STANDARDS. SELLER MAKES NO OTHER WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY. SELLER MAKES NO WARRANTY THAT OPERATION OF THE PRODUCT SERVICED WILL BE UNINTERRUPTED OR ERROR FREE. BUYER MUST PROMPTLY REPORT IN WRITING ANY BREACH OF THIS WARRANTY TO SELLER NO LATER THAN FIFTEEN (15) DAYS AFTER EXPIRATION OF THE ABOVE WARRANTY PERIOD, AND BUYER’S EXCLUSIVE REMEDY AND SELLER’S ENTIRE LIABILITY FOR ANY BREACH OF SUCH WARRANTY SHALL BE FOR SELLER TO RE-PERFORM THE SERVICES OR, IF SELLER IS UNABLE TO RE-PERFORM THE SERVICES AS WARRANTED, BUYER SHALL BE ENTITLED TO RECOVER THE PRORATED FEES PAID TO SELLER FOR THE NONCONFORMING SERVICES. SUBJECT TO THE EXCLUSION OF DAMAGES PROVISION CONTAINED IN THE GENERAL TERMS AND CONDITIONS, SELLER’S MAXIMUM LIABILITY FOR ALL OTHER DAMAGES WILL BE LIMITED TO ONE (1) YEAR’S SERVICE CHARGES. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES AND IN SUCH EVENT, THE FOREGOING EXCLUSIONS AND LIMITATIONS SHALL ONLY APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW.

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