
Applied Video Imaging, LLC
STANDARD TERMS & CONDITIONS OF SALE

1. Applicability, Acceptance of Terms, Entire Agreement.

a. These terms and conditions of sale (these “**Terms**”) are the only terms which govern the sale of the goods (“**Goods**”) by **Applied Video Imaging, LLC**, a Virginia corporation (“**AVI**”) to Buyer. Notwithstanding anything herein to the contrary, if a written contract signed by both AVI and Buyer is in existence covering the sale of the Goods covered hereby, the terms and conditions of that contract will prevail to the extent they are inconsistent with these Terms.

b. The Price Quote provided by AVI (the “**Price Quote**”), the Sales Confirmation provided by AVI (the “**Sales Confirmation**”), and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. In the event of a conflict between these Terms and any provisions contained in any purchase order, confirmation, or other document issued by Buyer, these Terms shall prevail. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms.

2. Delivery and Reschedules.

a. The Goods will be delivered within a reasonable time after the acceptance by AVI of Buyer’s purchase order, subject to availability of finished Goods.

b. AVI shall make delivery in accordance with the terms specified in the Sales Confirmation. Unless otherwise stated in the Sales Confirmation, AVI shall deliver the Goods to a carrier selected by AVI (the “**Delivery Point**”) using AVI’s standard methods for packaging and shipping such Goods. AVI shall not be liable for any delays, loss or damage in transit. AVI may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer’s purchase order.

c. Buyer may be entitled to reschedule a delivery of Goods not more than once, and only if Buyer gives at least thirty (30) days written notice of such reschedule and the rescheduled delivery is no later than sixty (60) days after the originally scheduled delivery date.

3. Title and Risk of Loss. Title and risk of loss pass to Buyer upon delivery of the Goods at the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to AVI a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Virginia Uniform Commercial Code. In the event of a default by Buyer under this Agreement, AVI will have the right, without liability to Buyer, to repossess the Goods sold hereunder. These

security interests will be satisfied by payment in full. On request of AVI, Buyer will promptly execute financing statements and other instruments which AVI may request to perfect its security interest.

4. Non-delivery. The quantity of any installment of Goods as recorded by AVI on dispatch from AVI's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. AVI shall not be liable for any non-delivery of Goods (even if caused by AVI's negligence) unless Buyer gives written notice to AVI of the non-delivery within fifteen (15) days of the date when the Goods would in the ordinary course of events have been received. Any liability of AVI for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

5. Inspection and Rejection of Nonconforming Goods.

a. Buyer shall inspect the Goods within fifteen (15) days of receipt (the "**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless Buyer notifies AVI in writing of any Nonconforming Goods during the Inspection Period (the "**Nonconforming Goods Notice**") and furnishes such written evidence or other documentation as reasonably required by AVI. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Buyer's purchase order, (ii) product does not comply with the applicable specifications, or (iii) product's label or packaging incorrectly identifies its contents. Upon receipt of the Nonconforming Goods Notice, AVI shall have a reasonable opportunity to correct any such noncompliance. If AVI does not receive the Nonconforming Goods Notice during the Inspection Period, Buyer will be deemed to have accepted any Goods delivered and to have waived any claims that the Goods are Nonconforming Goods.

b. If AVI receives the Nonconforming Goods Notice during the Inspection Period, AVI will, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the amount paid for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods to AVI's designated facility.

c. If AVI exercises its option to replace Nonconforming Goods, AVI shall, after receiving Buyer's shipment of Nonconforming Goods, deliver the replacement Goods in accordance with Sections 2-4 above. Upon Buyer's receipt of the replacement Goods, the provisions of this Section 5 will apply thereto.

d. Buyer acknowledges and agrees that the remedies set forth in Section 5.b above are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 5.b above, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to AVI.

6. Returns for Repair. When Buyer desires to return Goods for repair, Buyer should notify AVI in writing and, after receipt of a Return Material Authorization (RMA) number, Buyer may return the item to AVI's designated facility, transportation charges prepaid, for prompt attention. Buyer shall provide all possible information regarding the trouble experienced and complete details of the installation in which the product was used. An evaluation fee and/or repair fee may

be charged by AVI for non-warranty repairs. AVI's standard repair procedures and prices shall govern the repair process, and Buyer shall pay for all non-warranty evaluations and repairs within thirty (30) days of invoice therefor.

7. Price, Payments, and Taxes.

a. Buyer shall purchase the Goods from AVI at the prices (the "**Prices**") stated either (i) in the Price Quote provided by AVI to Buyer, provided that Buyer's purchase order is received by AVI before the expiration date stated in the Price Quote, or (ii) in AVI's published price list in force as of the date that AVI accepts Buyer's purchase order. In addition, Buyer shall pay all transportation and installation costs.

b. All Prices are exclusive of any and all taxes, duties, and charges of any kind imposed by any governmental entity or authority, including but not limited to excise, sales or use taxes or import duties upon the production, sale, distribution, or delivery of goods or furnishing of services hereunder. Any taxes, duties, or charges that are due and owing hereunder shall be paid by Buyer at its sole cost and expense. This Section shall survive the acceptance and complete performance of this Agreement by the parties herein. Buyer shall not be responsible for any taxes imposed on, or with respect to, AVI's income, revenues, gross receipts, personnel or real or personal property or other assets

8. Payment Terms.

a. Unless otherwise stated in the Price Quote or the Sales Confirmation, Buyer shall pay all invoiced amounts due to AVI within thirty (30) days of AVI's invoice and Buyer shall make all payments hereunder in US dollars by check, ACH, or wire transfer.

b. Buyer shall pay interest on all late payments at the lesser of the rate of 2.0% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse AVI for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which AVI does not waive by the exercise of any rights hereunder), AVI shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for fifteen (15) days following written notice thereof.

c. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with AVI, whether relating to AVI's breach, bankruptcy or otherwise.

9. Cancellation. Buyer has no right to cancel any purchase order accepted by AVI, in whole or in part, without the prior written agreement of AVI. Custom products and end-of-life last time buys are noncancelable. Cancellation of orders for standard products is permitted only if written notice of cancellation is delivered to AVI at least thirty (30) days before the initially scheduled delivery date. Cancelable orders may be canceled by Buyer only upon payment of either a 15% restocking fee or reasonable cancellation charges whichever is higher. Reasonable cancellation charges shall include but not be limited to expenses already incurred for labor and material costs, overhead, commitments made by AVI, and a reasonable profit. In the event of cancellation, Buyer will have no rights in partially completed goods. If Buyer terminates or cancels an order without AVI's written agreement, Buyer shall be liable for all unpaid charges and sums due to AVI and will pay AVI for all damages and will reimburse all costs including reasonable attorneys' fees and

costs, suffered or incurred by AVI as a result of the breach by Buyer of its obligations under this Agreement, including any incidental, exemplary, indirect, special, or consequential damages. The remedies provided herein shall be in addition to all other means and remedies available to AVI.

10. Product Changes. Unless otherwise agreed to in writing signed by AVI, AVI at all times shall have the right, and is entitled in its sole discretion, to make substitutions, changes, additions or improvements to the products being delivered under a purchase order without liability or obligation to incorporate such changes, additions or improvements in any item manufactured, sold or delivered prior to incorporation of the change, addition or improvement. Such right is only provided that they will not adversely affect form, fit or function of the product.

11. Limited Warranty.

a. AVI warrants to Buyer that for a period of thirty six (36) months from the date AVI delivers the goods to the Delivery Point (the **“Warranty Period”**), that such Goods will be free from defects in material and workmanship, provided that such Goods have not been subjected to accident, abuse, or misuse and have been operated in accordance with AVI’s recommendations. Software is warranted, if at all, only to the extent provided in the applicable software license, and AVI makes no warranty or representation that the operation of software will be uninterrupted, error free, or that it will meet Buyer’s specific requirements. AVI disclaims all liability with respect to customer data, including software, stored in returned products. The foregoing warranty does not cover malfunctions, failures or defects resulting from abuse, misuse, accident, alteration, neglect, improper maintenance, or unauthorized or improper repair or installation.

b. **EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 11.A ABOVE, AVI MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, WHETHER EXPRESS, STATUTORY, OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY (I) WARRANTY OF MERCHANTABILITY, (II) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (III) WARRANTY OF TITLE, OR (IV) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.**

c. Products manufactured by a third party (**“Third Party Product”**) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in Section 11.a above. For the avoidance of doubt, **AVI MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, STATUTORY, OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY (I) WARRANTY OF MERCHANTABILITY, (II) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (III) WARRANTY OF TITLE, OR (IV) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.**

d. AVI shall not be liable for a breach of the warranty set forth in Section 11.a above unless: (i) Buyer gives written notice of the defect, reasonably described, to AVI within thirty (30) days of the time when Buyer discovers or ought to have discovered the defect; (ii) AVI is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested

to do so by AVI) returns such Goods to AVI's place of business at AVI's cost for the examination to take place there; and (iii) AVI reasonably verifies Buyer's claim that the Goods are defective.

e. AVI shall not be liable for a breach of the warranty set forth in Section 11.a above if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow AVI's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of AVI.

f. Subject to Section 11.d and 11.e above, with respect to any such Goods during the Warranty Period, AVI shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro rata contract rate provided that, if AVI so requests, Buyer shall, at AVI's expense, return such Goods to AVI.

g. THE REMEDIES SET FORTH IN SECTION 11.F SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY AND AVI'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11.A.

12. Limitation of Liability.

a. **IN NO EVENT SHALL AVI BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS OR OF ANY WARRANTY, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY EITHER PARTY, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

b. **IN NO EVENT SHALL AVI'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO AVI FOR THE GOODS SOLD HEREUNDER THAT ARE THE SUBJECT OR BASIS OF THE CLAIM.**

c. The limitation of liability set forth in **Section 12.b above** shall not apply to liability resulting from AVI's gross negligence or willful misconduct.

13. Software License. In the event that a software license is provided with the delivery of computer software by AVI to Buyer, wherein a condition of use of the software is acceptance of the agreement ("**Shrink Wrap License Agreement**") that agreement shall be controlling with respect to the software. In the absence of a Shrink Wrap License Agreement or a separate written software license agreement between Buyer and AVI, Buyer and AVI agree to accept the terms and conditions stated herein effective as of the date of the first delivery hereunder. Subject to the terms and conditions herein, the AVI grants to Buyer a nonexclusive, nontransferable, nonsublicensable license to use the software or software documentation provided by AVI: (i) in the course of the normal operation in or with AVI products, (ii) in the analysis or the formatting of reports using

data from such AVI products or, (iii) on AVI or non-AVI products that are used to test, maintain, download, or process information compiled by AVI products. Making copies of software or documentation except for one copy for archive purposes is prohibited unless specifically authorized by AVI in writing. Should such copying be authorized, Buyer will reproduce and include all AVI proprietary and copyright notices and other legends in the same manner that AVI provides such notices and legends, both in and on every copy of licensed software and documentation and in any form. The software license and rights granted by AVI to Buyer hereunder are personal to Buyer. The licensed software and documentation may not be sub-licensed, transferred, or loaned to any other party without AVI's prior express written consent, except that Buyer may transfer the licensed software and documentation in conjunction with the resale of any equipment in which the licensed software and documentation is installed or with which it is used.

14. Design Authority. The Goods are subject to the protection of the laws of the United States of America and other countries, and related treaties there between, pertaining to patents, copyrights, trade secrets, confidential information, know-how and other forms of intellectual and industrial property. Buyer is notified that portions of all material, software, data, processes, equipment, facilities and special tooling, supplied by AVI are proprietary to AVI. AVI shall retain for itself all proprietary rights in and to all designs, engineering details, intellectual property, and other data pertaining to any product sold except where rights are assigned under written agreement signed by a corporate officer of AVI. Unless such prior written agreement is provided by AVI, in no event shall Buyer permit such data, drawings or information to be: (1) disclosed to any third party other than Buyer's customer; (2) used by the Buyer or Buyer's customer for manufacture of like or similar goods; (3) used for purposes of duplicating or reverse-engineering, AVI's proprietary designs or processes; or (4) used by a party other than the Buyer or Buyer's customer for any purpose.

15. Documents and Manuals. All documentation, installation, maintenance, and operations manuals will be in English and in AVI format. AVI retains all rights in and to the documentation and manuals. Copying or translating the documentation or manuals, in whole or in part, into another written or electronic format or language is prohibited unless specifically authorized by AVI in writing. Should such copying be authorized, Buyer will reproduce and include all AVI proprietary and copyright notices and other legends in the same manner that AVI provides such notices and legends. Any translation requirements are Buyer's responsibility.

16. United States Government Contract. If this purchase is identified as made for use under a United States Government contract, only those applicable terms and conditions which are required to be included by the Federal Acquisition Regulation and the Department of Defense Supplement (FAR/DFAR), or by Executive Order of the United States Government and such other clauses as may be agreed to between the parties shall be incorporated herein by reference.

17. Compliance with Law. Buyer shall comply with all applicable laws, regulations, treaties, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to purchase the Goods and to carry out its obligations under this Agreement.

18. Export Control. Each party will comply with all export and import regulations, controls, sanctions, laws, and orders, as they may be amended from time to time ("**Export Controls**"),

applicable to the export and re-export of goods, software, technology, or technical data (as used in this Section, “**Items**”) or services, of all countries involved in transactions associated with this agreement. Such Export Controls include, but not be limited to, the United States Department of Commerce’s Export Administration Regulations (“**EAR**”) and, to the extent applicable, the United States Department of State’s International Traffic in Arms Regulations (“**ITAR**”), regulations and orders administered by the Treasury Department’s Office of Foreign Assets Control. AVI shall notify Buyer of any Items or services that are controlled by the ITAR. If any Items or services are controlled by the EAR, AVI shall provide Buyer with the applicable Export Control Classification Number (“**ECCN**”), as well as the ECCNs of any components or parts thereof. To the extent that such goods, services or components were specifically designed, developed, configured, adapted or modified for a military application and are controlled under the EAR, AVI shall notify the Buyer of this fact and shall provide the Buyer with written confirmation from the United States Department of State that such Items are not subject to the jurisdiction of the ITAR. AVI shall be responsible for obtaining, at no cost to the Buyer, all relevant official approvals, licenses and required authorizations for any export conducted by the AVI. Any Party conducting any re-export shall be responsible for obtaining any relevant official approvals, licenses, and required authorizations. Each Party shall reasonably cooperate and exercise reasonable efforts to support the other Party in obtaining any necessary licenses or authorizations required to perform its obligations under this Agreement. AVI may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on any of the Goods.

19. Office of Foreign Assets Control of the U.S. Department of the Treasury. Buyer represents and warrants to AVI: (i) that Buyer is not a person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, “Specially Designated National and Blocked Person” or any other banned or blocked person, entity, or nation pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control (collectively, a “**Blocked Person**”); (ii) that Buyer is not acting, directly or indirectly, for or on behalf of any Blocked Person; (iii) that this transaction is not a banned or blocked transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and (iv) that Buyer is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any Blocked Person.

20. Termination. In addition to any remedies that may be provided under these Terms, AVI may terminate this Agreement with immediate effect upon written notice to Buyer : (i) if Buyer fails to pay any amount when due under this Agreement and such failure continues for thirty (30) days after Buyer’s receipt of written notice of nonpayment; (ii) if Buyer has not otherwise performed or complied with any of these Terms, in whole or in part; (iii) if Buyer becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors; or (iv) in the event of any material inaccuracy in or breach of any of the representations, warranties, or covenants of Buyer. Upon the occurrence of any of the foregoing conditions, Buyer will indemnify, defend, and hold harmless AVI and its officers, directors, managers, members, shareholders, partners, employees, attorneys, agents, successors, assigns, suppliers, and service providers (collectively, “**AVI Parties**”) from, against, and with respect to any and all liabilities, claims, losses, damages (including without limitation property damage and all incidental, consequential, punitive and exemplary damages), interest, fines, taxes, premiums, assessments,

penalties, costs, and expenses (collectively, “**Claims**”), including without limitation any and all attorneys’ fees, paraprofessionals’ fees, and expenses incurred in the defense of the Claims or the enforcement of the terms of this Agreement (including the enforcement and collection of monies owed under the terms of this indemnity), whether or not a suit is instituted and, if so instituted, through all trial and appellate levels.

21. Force Majeure. Neither party shall not be liable or responsible to the other party, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (excluding non-payment by Buyer of any sums owed to AVI) when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of such party, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party’s workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of one hundred eighty (180) days, either party shall be entitled to give notice in writing to the other party to terminate this Agreement.

22. Life Support and Nuclear Applications. AVI’s Goods are not authorized for and should not be used as critical components in life support systems or nuclear facility applications without the specific written consent of AVI. Buyer’s use of AVI’s products for life support or nuclear facility applications is at Buyer’s own risk. Buyer agrees to defend, indemnify, and hold AVI Parties harmless from any and all claims, suits, or expense resulting from such use. As used herein:

a. Life support devices or systems are those which support or sustain life, whose failure to perform, when properly used in accordance with instructions provided, can be reasonably expected to result in personal injury or death.

b. Examples of nuclear facility applications are those (i) in a nuclear reactor, or (ii) any device designed or used in connection with the handling, processing packaging, preparation, utilization, fabrication, alloying storing, or disposal of fissionable material or waste products thereof.

Section 23. General Provisions.

a. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing in this Agreement will be construed as creating any partnership, joint venture, franchise, employment relationship, or agency relationship in any way between AVI and Buyer, and each of AVI and Buyer acknowledges and agrees that neither party is a franchisee of the other party. Neither party will have apparent or actual authority to bind the other party to any debt, contract, or other arrangement.

b. **Due Organization.**

i. Buyer represents and warrants that it is duly organized, validly existing, and in good standing under the laws of all applicable jurisdictions and has the power to enter into this Agreement and to carry out and consummate the purchases contemplated herein.

ii. AVI represents and warrants that it is a corporation duly organized, validly existing, and in good standing under the laws of the Commonwealth of Virginia, and has the corporate power to enter into this Agreement and to carry out and consummate the transactions contemplated herein.

c. Due Authorization. Each party represents, warrants and agrees that the execution and performance of this Agreement have been duly approved by all necessary corporate or other action and are not in violation of any other agreement such party has with any third parties; and that this Agreement is a valid binding, legal obligation of each party, enforceable in accordance with its terms.

d. Further Assurances. Each party agrees that it will execute, acknowledge, and deliver all such further documents, and take such further action, as may be reasonably required to carry out and consummate the transactions contemplated by this Agreement.

e. Notice. All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

f. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Virginia and the applicable federal laws of the United States of America, without regard to the conflicts of law provisions of any jurisdiction. The parties expressly agree to exclude from this Agreement the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any amendments or successors thereto. Any and all claims and disputes arising out of, or relating to, this Agreement, or the performance or non-performance by either party of any of its obligations hereunder will be commenced and maintained only in a state or federal court of competent subject matter jurisdiction situated or located in Charlottesville, Virginia, United States of America. Each party consents to the exclusive personal jurisdiction of and venue in any such court. If any ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties and no presumptions or burden of proof will arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement.

g. Non-Waiver. No waiver by AVI of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by AVI. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

h. Non-Assignability; Binding Effect. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of AVI. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation

relieves Buyer of any of its obligations under this Agreement. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

i. No Third-Party Beneficiaries. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any Person or legal entity not a party to this Agreement.

j. Severability. In the event that any provision of this Agreement is finally determined by a court of competent jurisdiction to be void, unenforceable, invalid, or otherwise contrary to law or equity, the parties agree to reform (or as necessary, authorize such tribunal to reform) this Agreement to the extent necessary to cure (or if necessary, delete) such offending term, and that the remainder of this Agreement that can be given effect without the benefit of such term will be given effect.

k. Amendment and Modification. These Terms may only be amended or modified in a writing which specifically states that it amends these Terms and is signed by an authorized representative of each party.

l. Headings; Gender and Number. The descriptive headings in these Terms are inserted for convenience only and do not constitute a part of these Terms. Throughout these Terms, wherever the context requires or permits, the neuter gender will be deemed to include the masculine and feminine, and the singular number to include the plural, and vice versa.

24. Survival. Any completion, termination, cancellation, or expiration of this Agreement notwithstanding, provisions which are by their terms intended to survive and continue will so survive and continue, including without limitation Sections 11.b, 11.c, 12, 17, 19, 23.f, and 22.