

VILLAGE OF VERNON HILLS

ORDINANCE 2017-034

AN ORDINANCE AUTHORIZING THE EXPENDITURE OF \$80,166 FOR THE ENGINEERING, DESIGN AND INSTALLATION SERVICES FOR THE VERNON HILLS VILLAGE BOARD ROOM VIDEO RECORDING SYSTEM FOR FISCAL YEARS 2017 & 2018 AND EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF VERNON HILLS AND AVI SYSTEMS INC.

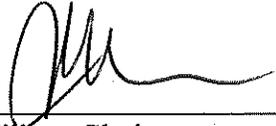
THE 18th DAY OF APRIL 2017

Published in pamphlet form by the Authority of the President and Board of Trustees of the Village of Vernon Hills, Lake County, Illinois, this 19th Day of April 2017

AFFIDAVIT OF SERVICE

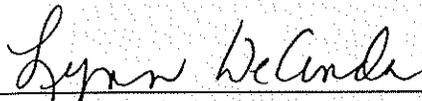
STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, JOHN M. KALMAR, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE 2017- 034 AN ORDINANCE AUTHORIZING THE EXPENDITURE OF \$80,166 FOR THE ENGINEERING, DESIGN AND INSTALLATION SERVICES FOR THE VERNON HILLS VILLAGE BOARD ROOM VIDEO RECORDING SYSTEM FOR FISCAL YEARS 2017 & 2018 AND EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF VERNON HILLS AND AVI SYSTEMS INC. TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM APRIL 19, 2017 TO APRIL 29, 2017.

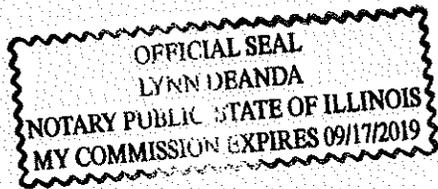


John M. Kalmar, Village Clerk

SUBSCRIBED AND SWORN TO BEFORE
THIS 19th DAY OF APRIL 2017



Notary Public



ORDINANCE 2017-034

AN ORDINANCE AUTHORIZING THE EXPENDITURE OF \$80,166 FOR THE ENGINEERING, DESIGN AND INSTALLATION SERVICES FOR THE VERNON HILLS VILLAGE BOARD ROOM VIDEO RECORDING SYSTEM FOR FISCAL YEARS 2017 & 2018 AND EXECUTION OF AN AGREEMENT BETWEEN THE VILLAGE OF VERNON HILLS AND AVI SYSTEMS INC.

WHEREAS, the Village of Vernon Hills, County of Lake, State of Illinois (*"the Village"*) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code; and

WHEREAS, the Village has issued a Request for Proposal to contract for installation of a new Village Board Room Video Recording System for Fiscal Years 2017 & 2018; and

WHEREAS, the Village staff has reviewed the three proposals received and has determined that AVI Systems Inc. is providing the best proposal in terms of value, price, and quality of experience for Fiscal Years 2017 through 2018; and

WHEREAS, AVI Systems Inc. is an audio/video design and installation company specializing in Government, Education and Entertainment design and installation and has provided a competitive proposal through this process in an amount not to exceed \$80,166 for Fiscal Years 2017 & 2018; and

WHEREAS, Funds are available in the Fiscal Year 2017 and Fiscal Year 2018 Budgets for this project; and

WHEREAS, the Village Board is required to approve all professional service purchases over \$20,000.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, as follows:

SECTION ONE: APPROVAL OF PROPOSAL. The Proposal by and between the Village and AVI Systems Inc. shall be, and it is hereby, approved as attached in Exhibit A to this Ordinance.

SECTION TWO: EXECUTION OF AGREEMENT. The Village Manager shall be, and is hereby, authorized and directed to execute the Agreement with AVI Systems Inc., on behalf of the Village, in substantially the form attached to this Ordinance as Exhibit A, and as approved by the Village's Corporation Counsel.

SECTION THREE: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon its passage and approval by a majority of the members of the Village Board.

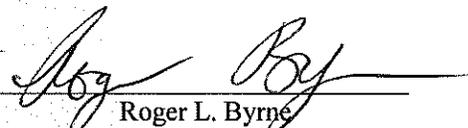
Dated this 18th day of April 2017

Adopted by Roll Call Vote As Follows:

AYES: 6 – Koch, Marquardt, Williams, Hebda, Schultz, Grieb

NAYS: 0 - None

ABSTAIN: 0 - None


Roger L. Byrne
Village President

PASSED: 4/18/2017

APPROVED: 4/18/2017

ATTEST: 4/19/2017

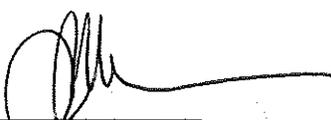

John M. Kalmar
Village Clerk



EXHIBIT A: ENGAGEMENT LETTER & PROPOSAL

Retail Sales Agreement



AVI Systems Inc., 717 West Algonquin Road Arlington Heights, IL, 60005 | Phone: (630)477-2300, Fax: (630)477-2301

Proposal Number: 777476
Prepared For: Village of Vernon Hills
Attn: Mike Storto

Proposal Date: April 18, 2017
Village Boardroom

Prepared By: Denny McDougald
Phone: (630)477-2355
Email: denny.mcdougald@avisystems.com

BILL TO

Attn: Mike Storto
Village of Vernon Hills
290 Evergreen Drive N/A
Vernon Hills, IL, 60061
Phone: N/A
Email: mikes@vhills.org
Customer Number: VOV001

SITE

Attn: Mike Storto
Village of Vernon Hills
290 Evergreen Drive N/A
Vernon Hills, IL, 60061
Phone: (847)918-3560
Email: mikes@vhills.org

COMMENTS

Terms – Net 30 days upon date of invoice.

PRODUCTS AND SERVICES SUMMARY

Equipment	\$42,141.00
Integration	\$33,396.00
PRO Support	\$3,702.00
Shipping & Handling	\$927.00
Tax	\$0.00
Grand Total	\$80,166.00

Unless otherwise specified. The prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within 45 days of invoice. Discount only applies to new items included on the invoice, and only applies if the balance on the invoice is paid in full.

All returned equipment is subject to a restocking charge. The prices are valid for 30 days and may be locked in by signing this Retail Sales Agreement.

Overdue balances are subject to a finance charge of 1.5% per month, or interest at the highest rate permitted by applicable law. In the event AVI must pursue collection of unpaid invoices, Customer agrees to pay all of AVI's costs of collection, including its attorneys' fees.

INVOICING AND PAYMENT TERMS

AVI uses progress billing, and invoices for equipment and services allocated to the contract on a monthly basis. Unless otherwise specified, all items quoted (goods and services) as well as applicable out of pocket expenses (permits, licenses, shipping, etc.) are invoiced in summary (including applicable sales taxes due for each category of invoiced items).

Customer is to make payments to the following "Remit to" address:

AVI Systems
NW8393 PO Box 1450
Minneapolis, MN 55485-8393

If Payment Method is ACH: Customer must make all payments in the form of bank wire transfers or electronic funds transfers through an automated clearinghouse with electronic remittance detail, in accordance with the payment instructions AVI Systems provides on its invoice to Customer.

A monthly summary of detailed equipment received is available upon request. Equipment received may be different than equipment billed based on agreed billing method.

TAXES AND DELIVERY

Unless stated otherwise in the "Products and Services Summary" above, AVI will add and include all applicable taxes, permit fees, license fees, and delivery charges to the amount of each invoice. Taxes will be calculated according to the state law(s) in which the product(s) and/or service(s) are provided. Unless Customer provides a valid tax exemption certificate for any tax exemption(s) claimed, AVI shall invoice for and collect all applicable taxes in accordance with state law(s), and Customer will be responsible for seeking a tax credit/refund from the applicable taxing authority.

AGREEMENT TO QUOTE AND DOCUMENTS CONSTITUTING YOUR CONTRACT WITH AVI

Customer hereby accepts the above quote for goods and/or services from AVI. When duly executed and returned to AVI, AVI's Credit Department will check Customer's credit and approve the terms. After approval by AVI's Credit Department and signature by AVI, this Retail Sales Agreement will, together with the AVI General Terms & Conditions (which can be found at www.avisystems.com/AVITermsOfSale.pdf) form a binding agreement between Customer and AVI. (This Retail Sales Agreement and the AVI General Terms & Conditions of Sale (the "T&Cs") are referred to collectively as the "Agreement"). If not defined in this Agreement, all capitalized terms shall have the meaning given to them in the T&Cs. Should AVI's Credit Department determine at any point prior to AVI commencing work that Customer's credit is not adequate, or should it otherwise disapprove of the commercial terms, AVI reserves the right to terminate the Agreement without cause and without penalty to AVI.

AGREED AND ACCEPTED BY

Village of Vernon Hills
Company
[Signature]
Signature
John M. Kalmar
Printed Name
4/20/17
Date

AVI Systems, Inc.
Company
[Signature]
Signature
Tom Mehs
Printed Name
4/20/17
Date

CONFIDENTIAL INFORMATION

The company listed in the "Prepared For" line has requested this confidential price quotation, and shall be deemed "Confidential Information" as that term is defined in the T&Cs. This information and document is confidential and is intended solely for the private use of the customer identified above. Customer agrees it will not disseminate copies of this quote to any third party without the prior written consent of AVI. Sharing a copy of this quote, or any portion of the Agreement with any competitor of AVI is a violation of this confidentiality provision. If you are not the intended recipient of this quote (i.e., the customer), you are not properly in possession of this document and you should immediately destroy all copies of it.

PRODUCTS AND SERVICES DETAIL

PRODUCTS:

<u>Model #</u>	<u>Mfg</u>	<u>Description</u>	<u>Qty</u>	<u>Price</u>	<u>Extended</u>
		Implementation			
		Engineering & Drawings			\$9,780.00
		Project Management			\$2,384.00
		Programming			\$6,800.00
		On Site Integration			\$8,384.00
		Integrations Cables & Connectors			\$2,197.00
		Testing & Acceptance			\$3,576.00
		Travel Expense			\$275.00
		Sub-Total: Implementation			\$33,396.00
AW-HE40SWPJ9	PANASONIC	INT. PT CAM HD-SDI OUT WHITE CH	1	\$3,416.00	\$3,416.00
AW-HE40SKPJ9	PANASONIC	INT. PT CAM HD-SDI OUT BLACK CH	2	\$3,416.00	\$6,832.00
BPIX FLINT LS	BROADCAST PIX	Flint System with 6 inputs - 5 HD/SDI and 1 HD/SD and analog input + 8 channels of clips and graphic	1	\$12,495.00	\$12,495.00
BPIX 30	BROADCAST PIX	500 1ME Control Panel	1	\$3,395.00	\$3,395.00
BPIX 802	BROADCAST PIX	Panasonic Camera Control - up to 12 cameras via RS422 (requires 811, 814, or 818 use IP cameras)	1	\$950.00	\$950.00
602	BROADCAST PIX	On site training in the United States and Canada-additional consecutive day(s)	1	\$1,500.00	\$1,500.00
ES-HM	MIDDLE ATLANTI	60"DESK W/OVERBRIDGE,HM	1	\$1,658.00	\$1,658.00
DB32E	SAMSUNG	32IN LED 1920X1080 5000:1 DB32E DSUB/DVI-D/HDMI/USB2.0/STEREO MJACK	1	\$548.00	\$548.00
VG2239M-LED	VIEWSONIC	22" LED LCD monitor - Adjustable Display Angle - 1920 x 1080 - Full HD - Speakers	1	\$186.00	\$186.00
MSSVB	CHIEF	TABLE STAND UNIVERSAL	1	\$332.00	\$332.00
AV3	CRESTRON	3-Series Control System®	1	\$2,589.00	\$2,589.00
C2N-VEQ4	CRESTRON	4-channel Digital Volume Control, 4x4 Matrix Mixer and EQ Module, Cresnet	1	\$530.00	\$530.00
DM-TX-4K-302-C	CRESTRON	4K DigitalMedia 8G+® Transmitter 302	1	\$1,177.00	\$1,177.00
DM-RMC-4K-SCALER-C	CRESTRON	4K DigitalMedia 8G+® Receiver & Room Controller w/Scaler	3	\$1,059.00	\$3,177.00
TSW-1052-B-S	CRESTRON	10.1" Touch Screen, Black Smooth	2	\$1,412.00	\$2,824.00
TSW-1050-TTK-B-S	CRESTRON	Tabletop Kit for TSW-1050 & TSW-1052, Black Smooth	2	\$148.00	\$296.00
SE-8P4-US	PAKEDGE	8-Port Gigabit Switch with 4 PoE ports (Up to 2 PoE+ Ports), Unmanaged	1	\$236.00	\$236.00
		Sub-Total:			\$42,141.00
		Total:			\$75,537.00

PRO SUPPORT:

<u>Model #</u>	<u>Mfg</u>	<u>Description</u>	<u>Qty</u>	<u>Price</u>	<u>Extended</u>
AVISSA1YR	AVI SYSTEMS	1 Year System Support Agreement	1.0000	\$3,702.00	\$3,702.00

AVI Systems General Terms and Conditions of Sale

The following General Terms & Conditions of Sale (the "T&Cs") in combination with either (a) a signed Retail Sales Agreement or (b) Quote under which AVI Systems, Inc ("AVI") agrees to supply goods or services constitute a binding contract (the "Agreement") between AVI and the entity identified on page one of the Retail Sales Agreement or Quote (the "Customer"). In the absence of a separately negotiated "Master Services Agreement" between AVI and Customer signed in "wet ink" by the Chief Executive Officer or Chief Financial Officer of AVI, these T&C's shall apply. Any terms and conditions set forth in any correspondence, purchase order or Internet based form from Customer to AVI which purport to constitute terms and conditions which are in addition to those set forth in this Agreement or which attempt to establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by AVI unless the same has been manually countersigned in wet ink by an Officer of AVI.

1. **Changes In The Scope of Work** – Where a Scope of Work is included with this Agreement, costs resulting from changes in the scope of this project by the Customer, including any additional requirements or restrictions placed on AVI by the Customer or its representatives, will be added to the contract price. When AVI becomes aware of the nature and impact of the change, a contract Change Order will be submitted for review and approval by the Customer before work continues. AVI has the right to suspend the work on the project pending Customer's written approval of the Change Order.
2. **Ownership and Use of Documents and Electronic Data** – Subject to Illinois Law and where applicable, drawings, specifications, other documents, and electronic data furnished by AVI for the associated project under this Agreement are instruments of the services provided. These items are "Confidential Information" as defined in this Agreement and AVI shall retain all common law, statutory and other reserved rights, including any copyright in these instruments. These instruments of service are furnished for use solely with respect to the associated project under this Agreement. The Customer shall be permitted to retain copies of any drawings, specifications, other documents, and electronic data furnished by AVI for information and reference in connection with the associated project and for no other purpose.
3. **Proprietary Protection of Programs** – Where applicable this Agreement does not cause any transfer of title, or intellectual rights, in control systems programs, or any materials produced in connection therewith, including any source code. Any applications or programs supplied by AVI are provided, and are authorized for installation, execution, and use only in machine-readable object code form. This Agreement is expressly limited to the use of the programs by the Customer for the equipment in connection with the associated project. Customer agrees that it will not seek to reverse-engineer any program to obtain source codes, and that it will not disclose the programs source codes or configuration files to any third party, without the written consent of AVI. The programs, source codes and configuration files, together with AVI's know-how and integration and configuration techniques, furnished hereunder are proprietary to AVI, and were developed at its private expense. If Customer is a branch of the United States government, for purposes of this Agreement any software furnished by AVI hereunder shall be deemed "restricted computer software", and any data, including installation and systems configuration information, shall be deemed "limited rights data", as those terms are defined in FAR 52.227-14 of the Code of Federal Regulations.
4. **Shipping and Handling and Taxes** – The prices shown are F.O.B. manufacturer's plant or AVI's office depending on where items are located when direction is issued to ship to the point of integration. The Customer, in accordance with AVI's current shipping and billing practices, will pay all destination charges. In addition to the prices on this Agreement, the Customer agrees to pay amounts equal to any sales tax invoiced by AVI, or (where applicable) any use or personal property taxes resulting from this Agreement or any activities hereunder. Customer will defend, indemnify and hold harmless AVI against any claims by any tax authority for all unpaid taxes or for any sales tax exemption claimed by Customer.
5. **Title** – Where applicable, title to the Equipment passes to the Customer on the earlier of: (a) the date of shipment from AVI to Customer, or (b) the date on which AVI transmits its invoice to Customer.
6. **Security Interest** – In addition to any mechanics' lien rights, the Customer, for value received, hereby grants to AVI a security interest under the Illinois commercial code together with the a security interest under the law(s) of the state(s) in which work is performed or equipment is delivered. This security interest shall extend to all Equipment, plus any additions and replacements of such Equipment, and all accessories, parts and connecting Equipment now or hereafter affixed thereto. This security interest will be satisfied by payment in full unless otherwise provided for in an installment payment agreement. The security interest shall be security for all sums owed by Customer under this Agreement. A copy of this Agreement may be filed as a financing statement with the appropriate authority at any time after signature of the Customer. Such filing does not constitute acceptance of this Agreement by AVI
7. **Risk of Loss or Damage** – Notwithstanding Customer's payment of the purchase price for Equipment, all risk of loss or damage shall transfer from AVI to Customer upon transfer of Title to Customer. Customer shall be responsible for securing insurance on Equipment from this point forward.
8. **Receiving/Integration** – Unless the Agreement expressly includes integration services by AVI, the Customer agrees to furnish all services required for receiving, unpacking and placing Equipment in the desired location along with integration. Packaging materials shall be the property of the Customer.
9. **Equipment Warranties** – To the extent AVI receives any warranties from a manufacturer on Equipment; it will pass them through to Customer to the full extent permitted by the terms of each warranty. Factory warranties vary by manufacturer, and no additional warranties are expressed or implied.
10. **General Warranties** – Each Party represents and warrants to the other that: (i) it has full right, power and authority to enter into and fully perform its obligations under this Agreement, including without limitation the right to bind any party it purports to bind to this Agreement; (ii) the execution, delivery and performance of this Agreement by that Party does not conflict with any other agreement to which it is a Party or by which it is bound, and (iii) it will comply with all applicable laws in its discharge of its obligations under this Agreement. AVI warrants, for a period of 90 days from Substantial Completion, the systems integration to be free from defects in workmanship. CUSTOMER WARRANTS THAT IT HAS NOT RELIED ON ANY

INFORMATION OR REPRESENTATION PROVIDED BY OR ON BEHALF OF AVI WHICH IS NOT EXPRESSLY INCLUDED IN THESE GENERAL TERMS AND CONDITIONS OR THE RETAIL SALES AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH HEREIN, AVI DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE EQUIPMENT, MATERIALS AND SERVICES PROVIDED BY AVI, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON INFRINGEMENT AND TITLE.

11. Indemnification – Customer shall defend, indemnify and hold harmless AVI against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), that arise in whole or in part from: (a) any negligent act or omission of Customer, its agents, or subcontractors, (b) Customer's failure to fully conform to all laws, ordinances, rules and regulations which affect the Agreement, or (c) Customer's breach of this Agreement. If Customer fails to promptly indemnify and defend such claims and/or pay AVI's expenses, as provided above, AVI shall have the right to defend itself, and in that case, Customer shall reimburse AVI for all of its reasonable attorneys' fees, costs and damages incurred in settling or defending such claims within thirty (30) days of each of AVI's written requests. AVI shall indemnify and hold harmless Customer against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), to the extent that the same is finally determined to be the result of (a) any negligence or misconduct of AVI, its agents, or subcontractors, (b) AVI's failure to fully conform to any material law, ordinance, rule or regulation which affects the Agreement, or (c) AVI's uncured material breach of this Agreement. Nothing herein shall waive any immunities Customer may assert.

12. Remedies – Upon default as provided herein, AVI shall have all the rights and remedies of a secured party under the Illinois commercial code and under any other applicable laws. Any requirements of reasonable notice by AVI to Customer, or to any guarantors or sureties of Customer shall be met if such notice is mailed, postage prepaid, to the address of the party to be notified shown on the first page of this Agreement (or to such other mailing address as that party later furnishes in writing to AVI) at least ten calendar days before the time of the event or contemplated action by AVI set forth in said notice. The rights and remedies herein conferred upon AVI, shall be cumulative and not alternative and shall be in addition to and not in substitution of or in derogation of rights and remedies conferred by the Illinois commercial code and other applicable laws.

13. Limitation of Remedies for Equipment – AVI's entire liability and the Customer's sole and exclusive remedy in all situations involving performance or nonperformance of Equipment furnished under this Agreement, shall be the adjustment or repair of the Equipment or replacement of its parts by AVI, or, at AVI option, replacement of the Equipment.

14. Limitation on Liability – EXCEPT IN CIRCUMSTANCES INVOLVING ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE TOTAL LIABILITY OF A AVI UNDER THIS AGREEMENT FOR ANY CAUSE SHALL NOT EXCEED (EITHER FOR ANY SINGLE LOSS OR ALL LOSSES IN THE AGGREGATE) THE NET AMOUNT OF AVI'S INSURANCE COVERAGE FOR SUCH CLAIMS.

15. No Consequential Damages – AVI SHALL NOT HAVE ANY LIABILITY TO CUSTOMER OR TO ANY OTHER PERSON OR ORGANIZATION FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OF ANY DESCRIPTION (INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOSS OR INTERRUPTION OF BUSINESS), WHETHER BASED ON CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY, UNLESS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND IRRESPECTIVE OF THE NUMBER OR NATURE OF CLAIMS.

16. Acceleration of Obligations and Default – Payment in full for all "Equipment," which is defined as all goods identified in the section of the Agreement with the same title, as well for any and all other amounts due to AVI shall be due within the terms of the Agreement. Upon the occurrence of any event of default by Customer, AVI may, at its option, with or without notice, declare the whole unpaid balance of any obligation secured by this Agreement immediately due and payable and may declare Customer to be in default under this Agreement.

17. Choice of Law, Venue and Attorney's Fees – This Agreement shall be governed by the laws of the State of Illinois in the United States of America without reference to or use of any conflicts of laws provisions therein. For the purpose of resolving conflicts related to or arising out of this Agreement, the Parties expressly agree that venue shall be in the State of Illinois in the United States of America only, and, in addition, the Parties hereby consent to the exclusive jurisdiction of the federal and state courts located in Lake County, Illinois in the United States of America and waive any right to assert in any such proceeding that Customer is not subject to the jurisdiction of such court or that the venue of such proceeding is improper or an inconvenient forum.

18. General – Headings are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. The Parties acknowledge and agree that the Agreement has been negotiated by the Parties and that each had the opportunity to consult with its respective counsel, and shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either Party based on draftsmanship of the Agreement. This Agreement is not assignable by Customer without the prior written consent of AVI. Any attempt by Customer to assign any of the rights, duties, or obligations of this Agreement without such consent is void. AVI reserves the right to assign this Agreement to other parties in order to fulfill all warranties and obligations expressed herein, or upon the sale of all or substantially all of AVI's assets or business. This Agreement can only be modified by a written agreement duly signed by persons authorized to sign agreements on behalf of the Customer and of AVI, and variance from the terms and conditions of the Agreement in any order or other written notification from the Customer will be of no effect. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining Agreement due to causes such as natural disaster, war, emergency conditions, labor strike, acts of terrorism, the substantial inoperability of the Internet, the inability to obtain supplies, or any other reason or any other cause or condition beyond AVI's reasonable control. Except as otherwise stated in the Agreement, AVI is not obliged to provide any services hereunder for Equipment located outside the United States or Puerto Rico. Scheduled completion dates are subject to change based on material shortages caused by shortages in cable and materials that are industry wide.

19. Confidentiality. The term "Confidential Information" shall mean the inventions, trade secrets, computer software in both object and source code, algorithms, documentation, know how, technology, ideas, and all other business, customer, technical, and financial information owned by AVI or the Customer, which is designated as confidential, or communicated in such a manner or under such circumstances as would reasonably enable a person

or organization to ascertain its confidential nature. All the Confidential Information of a party to this Agreement shall be maintained in confidence by the other party, and neither party shall, during the term of this Agreement or for a period of three (3) years subsequent to the termination of this Agreement, divulge to any person or organization, or use in any manner whatsoever, directly or indirectly, for any reason whatsoever, any of the Confidential Information of the other party without receiving the prior written consent of the other party, unless required by law. AVI and the Customer shall take such actions as may be reasonably necessary to ensure that its employees and agents are bound by the provisions of this Section, which actions shall, as may be reasonably requested by either party, include the execution of written confidentiality agreements with the employees and agents of the other party. The provisions of this Section shall not have application to any information that (i) becomes lawfully available to the public; (ii) is received without restriction from another person or organization lawfully in possession of such information; (iii) was rightfully in the possession of a party without restriction prior to its disclosure; or (iv) is independently developed by a party or its employees or agents without access to the other party's similar information.

20. **Nonsolicitation** - To the extent permitted by applicable law, during the term of this Agreement and for a period of one (1) year after the termination this Agreement, each Party agrees that it shall not knowingly solicit or attempt to solicit any of the other Party's executive employees or employees who are key to such Party's performance of its obligations under this Agreement ("Covered Employees"). Notwithstanding the foregoing, nothing herein shall prevent either Party from hiring as an employee any person who responds to an advertisement for employment placed in the ordinary course of business by that Party and/or who initiates contact with that party without any direct solicitation of that person by that Party or its agents.

21. **Price Quotations and Time to Install** - AVI often installs systems at the end of a construction project. The price quoted contemplates that AVI shall have access to the location for the time shown for AVI to complete its work after the work of all other contractors is substantially complete which means, generally, all other trades are no longer generating dust in the location, and final carpeting/flooring is installed (the "Prepared Area") Failure to give AVI access to the Prepared Area for the amount of time shown for the installation may result in increased installation costs, typically in a manner proportionate to the reduction of time given to AVI to complete its work compared to the original schedule.

22. **Price Quotations** - Unless otherwise specified, all prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within the terms of each invoice. Payment in other forms, including credit card, p-card, or other non-cash payments shall be subject to a convenience above the cash price. Please speak to your AVI representative if you have any questions in this regard.

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