

## AVALON MASTER AGREEMENT

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This Avalon Master Agreement (“Agreement”) is dated \_\_\_\_\_ and is between Avalon Equipment Corporation, a California corporation DBA Avalon Test Equipment and Avalon Equipment Corp, with an address of 3194 Lionshead Ave, Carlsbad, California 92010 (“Avalon”), and \_\_\_\_\_, with an address of \_\_\_\_\_ (“Client”).

### Recitals

Avalon is engaged in the business of telecommunications test equipment (“Equipment”) leasing, sales, and services, including calibration, repair, and training. Avalon and Client are entering into this Agreement to define their relationship with respect to Avalon’s lease or sale of Equipment, or provision of Services (defined below), to Client. All Equipment leased or sold by Avalon to Client or Services provided by Avalon for Client shall be subject to the terms and conditions of this Agreement.

The parties therefore agree as follows:

**1. Effective Date**

This Agreement is effective as of the date of execution by both parties.

**2. Lease of Equipment**

From time to time, Avalon may lease to Client, and Client may lease from Avalon, certain Equipment as it is available from Avalon’s then current inventory, together with all standard accessories supplied by the manufacturer, operating manuals and other delivered items, as requested by Client and specified in Orders (defined below) to be placed by Client with Avalon.

**3. Services**

From time to time, Avalon may provide to Client certain Equipment calibration, repair, training, and related services (“Services”), as requested by Client and specified in Orders (defined below) to be placed by Client with Avalon.

**4. Sales**

From time to time, Avalon may sell to Client, and Client may purchase from Avalon, certain Equipment together with all standard accessories supplied by the manufacturer, operating manuals and other delivered items, as requested by Client and specified in Orders (defined below) to be placed by Client with Avalon.

**5. Orders**

- A. The term “Order” or “Orders” is the singular or collective reference to a purchase order to be placed by Client with Avalon, or an invoice, credit card authorization form, or other transaction document issued by Avalon and accepted by Client or issued by Client and accepted by Avalon through which the parties intend for Client to lease Equipment or purchase Equipment or Services from Avalon.

- B. Each Order shall constitute a separate agreement, shall specify the specific Equipment or Services applicable to the Order, and shall set forth additional terms and conditions of the lease or purchase and sale of Equipment or Services, and shall be subject to all of the terms and conditions of this Agreement. Each Order shall not become effective until accepted by Avalon in writing (acceptance by email or other electronic means shall suffice for purposes hereof). Each Order shall specify the following, as applicable: Equipment to be leased, purchased, or serviced; Services to be provided; initial term and rental period; rental payment quoted by Avalon; payment terms; delivery and shipping terms and addresses; and any other terms and conditions requested by Client or quoted by Avalon.

## **6. Payments**

Client shall make all payments for leased and/or purchased Equipment and Services when due as provided in the applicable Order. Client shall pay to Avalon a late charge on any late payment from the due date to the date paid at the lesser of 1.5% per month or the maximum rate permitted by law. Client shall also pay to Avalon an insufficient funds charge of \$50.00 for any credit card or check payment that is declined or returned due to insufficient funds.

## **7. Standard Terms and Conditions; Incorporation by Reference**

Each Order shall also be subject to all of Avalon's standard terms and conditions for Rentals, Services, Calibrations and Sales, (collectively the "Standard Terms and Conditions," and together with the Orders and this Agreement, the "Equipment Transaction Documents") which at the time of execution of this Agreement can be viewed on the [website](#) or may be accessed through Avalon's Client portal. Client can also request a copy of the Standard Terms and Conditions at any time by sending a request to [info@avalontest.com](mailto:info@avalontest.com). The Standard Terms and Conditions are hereby incorporated by reference into this Agreement as an integral part of this Agreement, and, together with this Agreement, shall be deemed to be incorporated by reference into each Order as an integral part of each Order. By placing an Order, Client accepts and agrees to the Standard Terms and Conditions in effect as of the date of the Order. Avalon may update the Standard Terms and Conditions from time to time by publishing the updates on its website, and the Standard Terms and Conditions applicable to an Order shall be those in effect and made available by Avalon on its website at the time of such Order.

## **8. Term**

The term of this Agreement commences on the Effective Date and shall continue until (a) expiration of all outside Orders; (b) until terminated by mutual agreement of the parties, (c) upon an event of default as set forth in the Standard Terms and Conditions, (d) by a party upon providing written notice if the other party fails to cure a material breach of this Agreement within thirty (30) days after receiving written notice of such breach, or (e) as otherwise in the Equipment Transaction Documents.

## **9. Limitation of Liability**

Avalon's liability on any claim of any kind (including death and bodily injury), whether based on contract, warranty, tort (including negligence), strict liability or otherwise, for any loss or damage arising out of or connected with or resulting from the provision of Equipment or Services hereunder, shall in no case exceed the total amount paid by Client to Avalon for such Equipment or Services. In no event, whether in contract, warranty, tort (including negligence), strict liability or otherwise, shall Avalon be liable for special, incidental, exemplary or consequential damages, including but not limited to, loss of profits or

revenue, loss of use of any property, business interruption, loss of stored data, downtime costs, costs of substitute service, or claims of the Client for such damages.

#### **10. Governing Law, Construction and Performance**

This Agreement shall be deemed to be executed and delivered in San Diego County, California, is to be construed under and governed by the laws of the State of California and is to be construed fairly and neither strictly for nor against any party hereto.

#### **11. Severability**

The provisions of this Agreement are divisible; if any provision is determined to be invalid or unenforceable, that provision is deemed limited to the minimum extent necessary to render it valid and enforceable and the remaining provisions of this Agreement continue in full force and effect without being impaired or invalidated in any way.

#### **12. Entire Agreement**

The Equipment Transaction Documents contain the entire understanding of the parties with respect to the subject matter hereof, and supersede all prior agreements, either oral or written, between the parties.

#### **13. Notices**

Except as otherwise provided in the Equipment Transaction Documents, or as otherwise expressly required by law, all notices which a party is required to give to the other party or other communication under the Equipment Transaction Documents shall be deemed to have been received if it is delivered as follows: (a) if it is delivered by email, when the recipient, by an email sent to the email address for the sender stated in the Equipment Transaction Documents or by a notice delivered by another method in accordance with this section, acknowledges having received that email, with an automatic "read receipt" not constituting an acknowledgement of an email for purposes of this section; (b) personally; or (c) by certified or registered United States mail, or other reputable overnight delivery service to the address for a party set forth in the Equipment Transaction Documents.

#### **14. Authority of Signatory**

Each individual signing this Agreement on behalf of a party, in his or her individual capacity, warrants and represents that he or she possesses all necessary capacity and authority to sign and enter into this Agreement on behalf of, and to bind, the legal entity upon behalf of which he or she is signing.

#### **15. Execution in Counterparts and by Email, Electronic Signature or Facsimile**

This Agreement may be executed in multiple counterparts, each of which is deemed a duplicate original, but all of which together shall constitute one and the same document. The parties agree that this Agreement is considered signed when the signature of a party is delivered as an attachment to an email in Portable Document Format ("PDF"), by electronic signature (including via DocuSign or other commercial e-signing software) or by facsimile. Such PDF, electronic, or facsimile signature shall be treated in all respects as having the same effect as an original signature.

IN WITNESS WHEREOF, the parties have executed this Avalon Master Agreement as of the effective date.

**AVALON TEST EQUIPMENT**

Avalon Equipment Corporation,  
DBA Avalon Test Equipment, and  
Avalon Equipment Corp

**CLIENT**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Client

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name of Signer

\_\_\_\_\_  
Title