



AVALON
Equipment Corporation

RENT ♦ SELL ♦ BUY ♦ REPAIR

CALL 888.542.8256

Your Electronic Test Equipment Source

SALES TERMS AND CONDITIONS

The following are the terms and conditions that apply to the sale of test equipment (Equipment) by Avalon Equipment Corporation (Avalon). By placing an order for Equipment (Equipment as referred to herein shall include all related accessories, manuals and other items that have been delivered with this order), the Customer accepts and agrees to these terms and conditions. Any additional or different terms and conditions proposed by the Customer or set forth in the Customer's purchase order, if any, will not be binding upon Avalon unless attested to in writing by an authorized representative of Avalon.

1.) Terms of Sale:

- a) Customer acknowledges that the equipment purchased from Avalon is pre-owned (used).
- b) Defects or discrepancies in or like objections to Equipment must be reported to Avalon in writing within five days after Customer receives the Equipment or it will be conclusively presumed that the Equipment was as ordered and was received in good condition and is accepted.
- c) Avalon offers a five (5) day right of return policy unless otherwise noted. If within five days the Equipment is found to be defective or does not meet the Customer's needs, the Equipment, upon receipt of authorization, may be returned to Avalon. Upon receipt of the returned Equipment Avalon may at its discretion provide a replacement unit to the Customer or provide a credit to the Customer's account for the purchase price of the Equipment.
- d) Cancellations are accepted within thirty (30) days from the date of shipment (including the 5 day right of return) at the discretion of Avalon. If a cancellation is accepted by Avalon, a restocking fee of 25% of the invoice price will apply for all returns after the 5 day right of return period. No cancellations will be accepted after 30 days.

2.) Warranty & Avalon Extended Warranties:

Avalon warrants the Equipment sold against defects in material workmanship to Customer for a period of 1 year for all sales to end-users and 90 days for all sales to re-sellers unless otherwise noted in writing. The warranty period commences at the date of shipment from the Avalon supplying location. If the Equipment, under normal use, is found to be defective within this period, Customer shall notify Avalon and immediately ship the defective Equipment, at its expense, to Avalon. Under no circumstances is the Customer authorized to break the warranty seals on the Equipment without prior approval of Avalon. Upon receipt of the defective Equipment, Avalon shall at its option repair the Equipment, supply a replacement, make a price adjustment or credit the Customer's account. Nonpayment or delinquent payment (10 days or more past the agreed terms) "voids" warranty. In cases of shipping damage, warranty does not apply. It is customer's responsibility to contact forwarder promptly and register a claim. Concealed damage should be reported at once and claim made to forwarder in writing. The warranty shall not apply to repairs or damage resulting from use by non-qualified personnel, misuse, abuse, neglect, broken warranty seals or use of the Equipment for purposes other than that for which it was intended. In addition, the following items sold as part of the Equipment are not warranted including CRT's, klystrons, internal batteries, and software. The foregoing is the sole and exclusive warranty and remedy regarding Equipment purchased by Customer and is in lieu of all other warranties and remedies, whether written, oral, implied or statutory. ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE ARE SPECIFICALLY EXCLUDED AND DISCLAIMED. Avalon will not be liable for any loss or damage whatever by reason of its failure to discover, report, repair or modify latent defects inherent in the design of the Equipment. WARRANTY WILL BE VOID IF PAYMENTS ARE NOT RECEIVED BY AVALON BY THE TENTH DAY AFTER ANY AGREED UPON CREDIT TERMS EXPIRE.

3.) Terms of Payment

Terms are C.O.D. from date of invoice unless otherwise stated. If credit terms (terms) are agreed to by Avalon, payments are delinquent one day after the terms expire. Payments not received by Avalon by the tenth day after the terms expire are subject to an initial late payment fee of 1.5% of the invoice total and 1.5% for each additional thirty days after the terms expire, but not exceeding the maximum lawful rate. Avalon reserves the right to change the terms at any time when, in Avalon's opinion, Customer's financial condition or previous payment record so warrants.

4.) Payment and Taxes:

In addition to the price specified herein and transportation costs, the Customer is responsible for paying the gross amount of any sales tax, use tax, property tax, excise tax, value-added tax or other similar tax applicable to the sale or delivery of the Equipment or its use by the Customer. In lieu thereof, the Customer has the responsibility to furnish Avalon, in advance, with a tax exemption certificate acceptable to the taxing authorities.

5.) Shipment:

All quoted prices are F.O.B. the Avalon supplying location from which shipment is made. Delivery and shipment charges are payable by Customer. Equipment will not be sent and must not be returned by U.S. Mail. Avalon shall ship in accordance with Customer's shipping instructions. In the absence of specific instructions, or if Customer's instructions are deemed unsuitable, Avalon reserves the right to ship by the most appropriate method. Avalon shall not be liable for delays in delivery due to causes beyond its reasonable control including, but not limited to, acts of nature, acts of government, labor disputes, delays in transportation and delays in delivery or non-delivery by Avalon's suppliers. Risk of loss of Equipment passes to the Customer at the time of delivery to a common carrier at the F.O.B. point.

6.) Prices:

Avalon reserves the right to change prospectively the published prices, discounts, terms and product availability at any time without prior notice. Avalon shall retain a security interest in the Equipment until the purchase price, plus any interest incurred, is paid in full.

7.) Limitation of Liability:

a.) Avalon's liability on any claim of any kind (excluding death and bodily injury), whether based on contract, warranty, tort (including negligence), strict liability of service or otherwise, for any loss or damage arising out of or connected with or resulting from the supply of Equipment hereunder, shall in no case exceed the price paid by Customer to Avalon for such Equipment.

b.) 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 Customer for such damages.

c.) The good(s) sold under the Agreement were originally purchased by Avalon from other sources and are being sold under circumstances which do not permit investigation of possible risks under patents or copyrights. Avalon, therefore, assumes no obligation of Customer with respect to such risks.

8.) Defaults:

If Customer defaults in its obligations hereunder or with respect to the Equipment, Customer agrees to pay Avalon for all costs and expense incurred by Avalon in recovering the Equipment, recovering any money due, and enforcing its rights hereunder. Avalon shall be entitled to recover its legal fees and expenses whether or not formal legal action is instituted.

9.) Notices:

Any required notices shall be given in writing at the address of each party set forth or to such other address as either party may substitute by written notice to the other.

10.) Assignability:

Neither party may assign or transfer any rights, duties or obligations herein without prior written consent of the other, nor any purported attempt to do so shall be null and void.

11.) Government Procurement:

No U.S. government procurement regulation shall be included hereunder or be binding on either party unless specifically agreed to in writing and expressly incorporated herein.

12.) Errors:

Stenographic, typographic and clerical errors are subject to correction.

13.) Applicable Law:

The laws of the State of California govern the validity, interpretation and enforcement of this agreement.