

TERMS AND CONDITIONS OF EVS SERVICE LEVEL AGREEMENT (SLA)

1. Introduction

1.1. These terms and conditions of SLA and the SLA Services Description available at https://evs.com/sites/default/files/sla_services_description.pdf (together with the general terms and conditions of sale, the "SLA") shall apply to the SLA services ("SLA Services") provided by EVS Broadcast Equipment SA or any of its affiliates ("EVS") to you ("Customer", together with EVS, the "Parties", each a "Party") on the Equipment in the Covered sites as defined in the SLA Services Description provided that they do not conflict with any other contractual provision expressly agreed in writing by EVS. This SLA supersedes any other terms and conditions of Customer, even if these have not been specifically rejected by EVS.

2. Scope

2.1. EVS agrees to provide the SLA Services to the Customer pursuant to the SLA. EVS may provide at its discretion additional SLA-related services. EVS reserves the right to decide whether these services are available and, when available, the Parties will agree on the terms and conditions under which these services will be provided.

2.2. The SLA applies to all SLA Services in relation to the Equipment provided that the configuration of the global system in which the Equipment is integrated is provided to and approved by EVS prior to or on the Commencement Date as communicated by EVS to Customer. The Customer shall notify EVS in advance and in writing of any changes affecting the configuration of the Equipment. EVS' obligations under this SLA may be suspended until these potential changes affecting the configuration are approved by EVS.

2.3. The SLA may also apply to the additional EVS hardware and software that the Customer may acquire provided that the Parties expressly agreed so in writing.

3. Exclusions

3.1. Without prejudice to other exclusions set forth in the SLA, and unless otherwise agreed in writing, the SLA Services do not cover:

3.1.1. damages, problems or defects arising as a consequence of:

- 3.1.1.1. earthquakes, storms, flood, hurricane, tornado or other acts of God, fire, electrical power surges, environmental contamination, war, explosions, riots, strikes, lock-out, hacking, theft, vandalism, misuse, neglect, acts of war or terrorism, or any other similar occurrences due to external influences;
- 3.1.1.2. faulty environmental conditions, including but not limited to, improper storage, insufficient, excessive, or irregular electrical power, defective air-conditioning, excessive heat or humidity, flood, water, wind or lightning;
- 3.1.1.3. computer viruses, failure in third party communication networks, or similar actions from third parties;
- 3.1.1.4. alterations, transformation or integration of the Equipment without EVS' prior written consent;
- 3.1.1.5. faulty operation, abuse, mishandling, incorrect use, misuse, negligence of the Customer or any third parties relating to the Equipment
- 3.1.1.6. modifications or repairs caused by personnel other than EVS or EVS-approved personnel;
- 3.1.1.7. failure of the Customer to act as requested by EVS to ensure a state-of-the-art maintenance;
- 3.1.1.8. a problem or defect which occurrence cannot be repeated by EVS or the Customer;
- 3.1.1.9. transportation;
- 3.1.1.10. any fault in any associated equipment or accessories not provided by EVS.

3.1.2. SLA Services for equipment which is not specifically covered by the SLA or for Equipment beyond their end-of-life date subject to EVS' end-of-life policy as published and updated from time to time on <https://evs.com/en/end-of-life-products>;

3.1.3. third-parties hardware or software such as the operating systems of the Equipment;

3.1.4. interoperability issues with third-parties hardware or software unless EVS has been specifically contracted to ensure such interoperability;

3.1.5. training relating to the Equipment or to new equipment; and

3.1.6. commissioning of new equipment.

3.2. Without prejudice to the foregoing, EVS may provide at its discretion SLA services in case of the exclusion situations as mentioned above for a price to be determined by the Parties on a case-by-case basis.

4. Term and termination

4.1. The SLA shall start on the Commencement Date as communicated by EVS to Customer and shall be effective for the initial term as defined in the applicable quote, which may be renewed for a maximum total period of 5 years as from the delivery of the Equipment unless a termination notice is sent by one of the Party at least 3 months prior to the applicable anniversary date of this Agreement (the initial term and any subsequent renewed terms thereof shall be referred to as the "Term(s)").

4.2. Either Party may terminate this SLA for cause due to a material violation by the other Party of any of the terms and conditions set forth herein that continues unremedied for thirty (30) days following registered notice to the defaulting Party. If EVS terminates for cause, the Customer will forfeit all prepaid fees for the remainder of the applicable Term. If the Customer terminates for cause, EVS shall refund to the Customer any prepaid fees for the period after the date of termination, nothing herein will prejudice either Party's other remedies at law or equity as may be limited in this SLA.

4.3. The SLA may be terminated by EVS with immediate effect upon the Customer's: (i) failure to pay the amounts due hereunder and failure to remedy such breach within thirty (30) days after written notification of such breach, (ii) filing of a petition in bankruptcy not dismissed within thirty (30) days; (iii) insolvency; (iv) making of an assignment for the benefit of creditors, or the entering into of any other arrangement having similar effect; or, (v) initiation of proceedings for the dissolution or liquidation of business operations.

5. Payment

5.1. The fees to be paid by the Customer (the "SLA Fees") are proposed by EVS on basis of a SLA Services period of 5 years as from delivery of the related Equipment. EVS reserves the right to propose increased SLA Fees should SLA Services be required for an effective SLA Services period of less than 5 years.

5.2. The SLA Fees are exclusive of any taxes, insurance and (import) duties and which shall be borne and paid by Customer.

5.3. EVS shall be entitled to adjust the SLA Fees under the following circumstances at its own discretion:

5.3.1. Change of Covered Sites: the Customer physically removes (part of) the Equipment from the Covered Sites and reinstalls (part of) the Equipment in a new physical location.

5.3.2. Additional equipment: if the Customer purchases additional equipment and wishes to add this equipment to the SLA.

5.3.3. Additional services: if the Customer wishes to include additional services to the SLA.

5.3.4. Extension: if this SLA is extended for additional year(s).

5.3.5. Inflation rate: EVS may annually increase SLA Fees on the basis of the applicable Eurostat Euro Area inflation rate, without exceeding more than 10% over the previous year's SLA Fees.

5.4. In any event, EVS shall provide for written amendment to the SLA setting forth the effective date of any changes and any subsequent adjustment to the Services Fees.

6. Warranty

6.1. EVS warrants that it will - in providing the SLA Services - exercise reasonable skill and care in conformity with the normal standards to be expected of a competent professional providing comparable services.

7. Obligations of the Customer

The Customer shall:

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- 7.1. use the Equipment in accordance with the technical and environmental requirements as stipulated in the EVS specifications;
- 7.2. facilitate EVS' mission, such as providing all necessary information, free access to the Covered Sites, assisting the technician and providing all available means to allow a swift and accurate solution;
- 7.3. use every possible means to notify EVS about the nature of any Incident (e.g.: fax, e-mail, phone/voice message or other), in case it would encounter difficulties in reaching EVS;
- 7.4. adequately insure the Equipment against earthquakes, storms, flood, hurricane, tornado or other acts of God, fire, electrical power surges, environmental contamination, war, explosions, riots, strikes, lock-out, hacking, theft, vandalism, misuse, neglect, acts of war or terrorism, or any other similar occurrences due to external influences. EVS does not accept any responsibility to repair or replace Equipment under any of the foregoing circumstances;
- 7.5. ensure that it has and maintains a suitable virus protection as to ensure a proper Equipment/system health;
- 7.6. ensure that any SLA Services or any other services relating to the Equipment are performed by EVS or EVS-approved personnel;
- 7.7. promptly Install the updates made available by EVS;
- 7.8. provide EVS with a remote access (i.e. VPN or similar technologies) with no obstruction to the Equipment and/or to the Covered Sites in order to allow a proper Remote Access SLA Services, whenever requested by EVS;
- 7.9. if applicable - provide a safe and secure location for all parts, spares, equipment or materials which EVS stores in the Covered Sites;
- 7.10. refrain from soliciting or hiring any member of EVS' staff, for the purpose of offering alternate employment, either during the course of the SLA or within a two (2) years period thereafter, directly or indirectly through a third party, failing which an indemnity of EUR 25,000 shall be due without prejudice to EVS' right to claim additional compensations it being understood that general advertisement to which any member of EVS' staff respond shall in no event be deemed as a breach of the present section.

8. Liability

- 8.1. EVS shall use its commercially reasonable efforts to comply with its obligations under this SLA. To the maximum extent permitted by applicable law, and without prejudice to articles 13.2 to 6 of the general terms and conditions, EVS' exclusive liability and Customer's exclusive remedy for any and all claims in respect to this SLA shall be limited in aggregate to 100% of the amount actually paid by the Customer for the SLA Fees under this SLA.

9. Force Majeure

- 9.1. If the performance of this SLA is prevented or delayed by reason of force majeure, the Party whose performance is prevented or delayed shall give prompt written notice to the other Party of the event and shall be excused from performance to the extent delayed or prevented by force majeure without being liable for any damages resulting therefrom, provided that the Party whose performance is prevented or delayed shall take reasonable steps to avoid or remove such causes of non-performance and shall continue performance whenever and to the extent such causes are removed. If the force majeure event continues for more than six (6) months, each Party may elect to terminate this SLA. If Customer terminates this SLA under this clause, it shall be entitled to a credit for any amounts paid in advance to EVS on a pro rata basis.
- 9.2. The Customer's failure to pay the amounts due hereunder may not be covered by the above paragraph.

10. Entire SLA

- 10.1. The SLA, is the sole and complete statement of the obligations of the Parties as to its subject matter and supersedes all previous undertakings, negotiations and proposals as to such subject matter. This SLA may not be altered, amended or modified except in writing signed by a duly authorized representative of each Party.