

**SONY ELECTRONICS INC.  
PROFESSIONAL SOLUTIONS OF AMERICA  
ON-TIME SUPPORT (OTS) AGREEMENT  
TERMS AND CONDITIONS**

### **1.0 SCOPE AND DEFINITION OF SERVICES**

The Services provided to Customer hereunder shall be those Services described below for the equipment covered by your OTS Support agreement (the "Equipment"). **This Agreement covers only Equipment which is located within the 48 contiguous United States and Alaska.**

### **2.0 TERM OF CONTRACT**

- A. This Agreement is for the term indicated on your OTS Agreement and business reply card attached below.
- B. For agreements sold directly by Sony to Customer, Sony may, at its sole discretion, either (i) suspend performance of this Agreement or (ii) cancel this Agreement if Customer fails to make any payment identified as delinquent or if Customer fails to maintain adequate credit status within ten (10) days of written notice from Sony. Such suspension or cancellation shall not relieve Customer of its obligation to pay all fees due hereunder for the full extent of the term of Agreement. In the event of such cancellation, all such fees and other obligations hereunder shall, at Sony's option, be accelerated and immediately due and payable.

### **3.0 ON-TIME SUPPORT (OTS)**

Subject to the terms and conditions described herein, this Agreement provides for (i) telephone technical support for VPL series projectors toll free at **877-350-3477** and, at Sony's sole and absolute discretion, the exchange on a temporary loan basis of a new or refurbished VPL series projector ('Loaner Unit') with comparable functionality to that of the Equipment for the Equipment until such time as Sony returns the Equipment to Customer.

### **3.1 OTS PROCESS**

The following describes the OTS process:

- A. If Customer has a problem with its Sony VPL Projector, Customer calls Sony Product Support at 877-350-3477. Customer will inform Sony of its certificate number so that Sony will be able to access Customer's information and confirm equipment coverage under the OTS program.
- B. The Sony Support Specialist takes the details of Customer's problem, to provide operational advice and problem diagnosis.
- C. If Sony determines that Customer's unit must be returned to Sony for repair, Sony will arrange to dispatch a Loaner Unit for overnight delivery to Customer. The Loaner Unit will be shipped for next business day delivery if the call is received before 6:00pm Eastern Time, Monday through Friday. The Loaner Unit will ship within 24 hours of the following business day if the call is received after 6:00pm Eastern Time, Monday through Friday; weekends; or on a Sony Holiday.
- D. When Customer receives the Loaner Unit, Customer must install the unit and ship the faulty unit back to Sony in the shipping carton the Loaner Unit arrived in. Sony provides a pre-paid return shipping label for the return shipment.
- Customers must ship the faulty unit to Sony within (3) business days of Customer's receipt of the Loaner Unit.
- E. Equipment sent to Sony for repair under this program will be handled as follows:
- If at the time Sony receives the equipment it is covered by a Sony SupportNET agreement or Sony Extended Warranty agreement, it will be repaired subject to the terms of the applicable agreement or extended warranty;

**SONY ELECTRONICS INC.  
PROFESSIONAL SOLUTIONS OF AMERICA  
ON-TIME SUPPORT (OTS) AGREEMENT  
TERMS AND CONDITIONS**

- If at the time Sony receives the equipment, the equipment or type of damage is not covered by a Sony SupportNET agreement or Sony Extended Warranty agreement, Sony will evaluate the equipment and provide Customer with a repair estimate quote based on Sony's then current time and materials rates; If the Customer approves the estimate, Sony will commence with repair services and return the equipment to Customer when it is completed; if Customer does not approve the estimate, Sony will return the equipment to Customer without effecting any repairs.
- F. When Customer's unit has been returned to the Customer, Customer will use the shipping carton its unit arrived in to return the Loaner Unit to Sony. Sony provides a pre-paid return shipping label for the return shipment of the Loaner Unit.
- G. Sony may inspect all returned Loaner Units. Customers returning Loaner Units that have been subject to damage or abuse are liable for the parts and labor (based on Sony's then current time and materials rates) incurred by Sony to effect repairs on the returned Loaner Units
- H. If the Loaner Units are not received at the designated Sony Service Center within ten (10) business days of the return of the Equipment to Customer, Sony may elect to charge Customer for the list price of the Loaner Units with payment being due within 30 days of the date of the invoice. Customers who have been invoiced for the Loaner Units but return them to Sony within 60 days of return of their Equipment shall be refunded what they have paid (or if payment has not been made, credited what they have been charged) for the Loaner Units less a restocking fee equal to 20% of the list price of the Loaner Units .
- I. Sony shall pay all costs of shipping the Loaner Units to and from Customer, and of the Equipment to and from Sony, provided that the equipment location is within the 48 contiguous United States and Alaska. Equipment to be repaired shall be shipped by Customer to the Sony Service Center at: 10227 Crossroads Loop, Laredo, TX, 78045.

### **3.2 TELEPHONE SUPPORT**

Under this Agreement, Customer shall receive telephone assistance from Sony by calling toll free at **877-350-3477** to help identify Equipment problems. If Sony determines, in its sole and absolute discretion, that the Equipment is defective and eligible for OTS program coverage under this Agreement, Sony shall ship Customer a Loaner Unit as required.

### **4.0 Customer Obligations**

- 4.1.** Customer shall be liable for all loss or damage to the Loaner Units from the time of delivery to Customer until they are shipped back to Sony in the manner prescribed by Sony.
- 4.2.** Customer agrees to indemnify, defend and save Sony (including its affiliates, officers, directors, employees and agents) harmless from and against any claims, suits, liabilities, loss, fines, penalties, damage and expense (including reasonable attorney's fees) arising out of or in connection with Customer's possession or use of the Loaner Units.
- 4.3.** Customer acknowledges and agrees as follows: (1) as title to the Loaner Units shall at all times be vested exclusively in Sony, to execute any and all documents which Sony deems necessary to protect Sony's ownership and title to the Loaner Units; (2) not to sell, lease, mortgage or otherwise hypothecate the Loaner Units; (3) that it shall not acquire any legal or equitable property right or interest in the Loaner Units; (4) that it shall not alter or modify the Loaner Units or remove from them any plate or

**SONY ELECTRONICS INC.  
PROFESSIONAL SOLUTIONS OF AMERICA  
ON-TIME SUPPORT (OTS) AGREEMENT  
TERMS AND CONDITIONS**

other marking which may evidence Sony's title thereto; (5) that it shall not permit the Loaner Units to become or remain a fixture to any real estate or any accession to any personality; and (6) not to permit any lien, charge, encumbrance, or security interest, to arise with respect to the Loaner Units.

**4.4** The terms and conditions of any license agreement applicable to the Equipment shall likewise apply to the Loaner Units.

## **5.0 CUSTOMER DATA**

Customer shall be solely responsible for maintaining backup data necessary to replace Customer data lost or damaged from any cause.

## **6.0 FEES AND TAXES**

### **6.1 FEES**

A. For Agreements sold directly by Sony to Customer, the Fee(s) for Services shall be due and payable thirty (30) days in advance of the applicable billing period. These fees may be revised upon renewal of an expired contract. For Agreements sold to Customer by an authorized Sony Reseller, the fees and payment terms shall be as agreed upon by Customer and the Sony Reseller.

B. Sony reserves the right to impose a late charge of any fees not paid by their due date. The late charge will be equal to 1.5% per month, or the maximum rate allowed by law, whichever is less, of the overdue fees.

### **6.2 TAXES**

Customer shall bear the cost of any sales, use, excise or similar taxed (exclusive of taxes based upon Sony's net income) applicable to the Service to be performed or fees charged under this Agreement, unless Customer provides Sony with an application tax exemption certificate or license (i.e. not-for-profit organizations) acceptable to the appropriate taxing authorities.

## **7.0 EXCLUSION OF WARRANTIES**

**IF THE EQUIPMENT IS COVERED BY A SONY SUPPORTNET AGREEMENT OR SONY EXTENDED WARRANTY AGREEMENT, THEN THE WARRANTIES SET FORTH THEREIN, IF ANY, SHALL APPLY TO THE SERVICES PERFORMED WITH RESPECT TO THE EQUIPMENT. IF THE EQUIPMENT IS NOT COVERED BY A SONY SUPPORTNET AGREEMENT OR SONY EXTENDED WARRANTY AGREEMENT, THEN THE SERVICE WORK ORDER/INVOICE ISSUED IN CONNECTION WITH ANY OF THE SERVICES PERFORMED HEREUNDER WILL STATE THE LIMITED WARRANTY APPLICABLE THERETO. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, ON THE PARTS OR SERVICES FURNISHED UNDER THIS AGREEMENT. SONY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANT ABILITY OR FITNESS FOR A PARTICULAR PURPOSE.. ANY WARRANTY AGAINST INFRINGEMENT THAT MAY BE PROVIDED IN SECTION 2-312(3) OF THE UNIFORM COMMERCIAL CODE AND/OR IN ANY OTHER COMPARABLE STATE STATUTE IS EXPRESSLY DISCLAIMED.**

## **8.0 LIMITATION OF LIABILITY**

**THE LIABILITY OF SONY, IF ANY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR DAMAGES FOR ANY CLAIM OF ANY KIND WHATSOEVER UNDER THIS AGREEMENT,**

**SONY ELECTRONICS INC.  
PROFESSIONAL SOLUTIONS OF AMERICA  
ON-TIME SUPPORT (OTS) AGREEMENT  
TERMS AND CONDITIONS**

REGARDLESS OF THE LEGAL THEORY, AND WHETHER ARISING IN CONTRACT OR TORT, REGARDLESS OF THE DELIVERY OR NON-DELIVERY OF REPLACEMENT UNITS, OR WITH RESPECT TO THOSE PRODUCTS, SHALL NOT BE GREATER THAN THE ANNUAL FEES PAID BY CUSTOMER HEREUNDER WITH RESPECT TO WHICH SUCH CLAIM IS MADE. UNDER NO CIRCUMSTANCES SHALL SONY BE LIABLE TO THE CUSTOMER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RELATIVE TO THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR COMPENSATION, REIMBURSEMENT OR LOSS OF PRESENT OR PROSPECTIVE PROFITS, CUSTOMER DATA, EXPENDITURES, INVESTMENTS OR COMMITMENTS, WHETHER MADE IN THE ESTABLISHMENT, DEVELOPMENT OR MAINTENANCE OF BUSINESS REPUTATION OR GOODWILL, COST OF CAPITAL, OR FOR ANY OTHER REASON WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE CLAIMS OF ANY THIRD PARTY.

#### **9.0 STATUTE OF LIMITATIONS**

No action arising out of the furnishing of parts or the Services under this Agreement may be brought by either party more than eighteen (18) months after the cause of action has accrued.

#### **10.0 FORCE MAJEURE**

Sony shall not be liable for any delay or failure to perform hereunder if such delay or failure is caused by events or circumstances beyond the reasonable control of Sony.

#### **11.0 GENERAL**

##### **11.1 ACCESS**

Customer and/or its customer shall provide Sony with reasonable and timely access to its facilities and all information necessary for Sony to perform the Services.

##### **11.2 ASSIGNMENT AND DELEGATION**

The Customer shall not assign or otherwise transfer this Agreement or any interest herein or any right thereunder without the prior written consent of Sony; and any such purported assignment, transfer or attempt to assign or transfer any interest herein or right hereunder, without the prior written consent of Sony, immediately shall be null, void and of no effect and shall result in the termination of this Agreement. Sony may, however, delegate its obligations to another party which Sony determines is qualified to perform the service hereunder. Such third party may include, but is not limited to, a Sony authorized dealer, third party service, or subcontractor. Sony will, nevertheless, remain liable under this Agreement for full performance of any obligations so delegated.

##### **11.3 WAIVERS**

Waiver by either party of any breach, or failure to enforce any of the terms and conditions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance with every term and condition hereof.

##### **11.4 NON-EXCLUSIVENESS**

Except as provided in Articles 7.0 and 8.0 hereof, any specific right or remedy provided in this Agreement shall not be exclusive but shall be cumulative upon all other rights and remedies set forth herein and allowed under applicable law.

**SONY ELECTRONICS INC.  
PROFESSIONAL SOLUTIONS OF AMERICA  
ON-TIME SUPPORT (OTS) AGREEMENT  
TERMS AND CONDITIONS**

**11.5 LITIGATION**

In the event of any litigation between the parties with respect to this Agreement, the prevailing party (the party entitled to recover costs of suit, at such time as all appeals have been exhausted or the time for taking such appeals has expired) shall be entitled to recover court costs and reasonable attorneys' fees in addition to such other relief as the court may award.

**11.6 HEADING**

The headings of Articles in the Agreement are for convenience and reference only and they in no way define, limit, or describe the scope of the provisions of such Articles and shall not be considered in the interpretation or enforcement of this Agreement.

**11.7 GOVERNING LAW AND VENUE**

This Agreement shall be construed and enforced in accordance with the local law of the State of New Jersey. The parties hereby consent to and submit to the jurisdiction of the federal and state courts located in the State of New Jersey, and any action or suit under this Agreement shall only be brought by the parties in the federal or state court with appropriate jurisdiction over the subject matter established or sitting in the State of New Jersey. The parties shall not raise in connection therewith, and hereby waive, any defenses based upon the venue, the inconvenience of the forum, the lack of personal jurisdiction, the sufficiency of service of process or the like in any such action or suit brought in the State of New Jersey.

**11.8 INVALIDITY**

Should any part of this Agreement for any reason be declared invalid, or unenforceable by the court, then the Agreement in its entirety shall be automatically terminated upon such determination.

**11.9 EXPORT**

Customer shall not export any Replacement Units or related technology or software in violation of applicable U.S. laws and regulations. Additionally, Customer shall be responsible for obtaining any required export licenses for Replacement Units.

**11.10 ENTIRETY OF AGREEMENT**

This Agreement supersedes, terminates and otherwise renders null and void any and all prior written and/or oral agreements entered into and between Customer and Sony with respect to Service of the Equipment. This Agreement represents and incorporates the entire understanding of the parties hereto with respect to the matters herein above expressly set forth and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, nature or description whatsoever made by either party to the other except such as are expressly set forth in this Agreement. This Agreement may be modified only by a written instrument signed by all parties to this Agreement, which instrument makes specific reference to this Agreement.

**12.0 ACCEPTANCE BY SONY**

This Agreement shall become a binding contract upon the terms and conditions set forth herein only upon acceptance by Sony. Any terms or conditions proposed or submitted by Customer by any means whatsoever which are inconsistent with or in addition to, these terms and conditions shall be null and void and of no force or effect.