

## GENERAL TERMS AND CONDITIONS

- SCOPE.** In case no specific agreement is executed between AudioCodes and Buyer, the terms and conditions of sale contained herein constitute the entire agreement between the parties in relation to the sale and purchase of Products and shall apply to all quotations and sales made by AudioCodes Ltd or its subsidiary (the relevant entity as named on the quote, order acknowledgement form or invoice, referred to here as "AudioCodes") and to Purchase Orders ("POs") accepted by AudioCodes for the manufacture, sale and supply of AudioCodes' products ("Products"). These terms and conditions may in some instances conflict with the terms and conditions affixed to the POs or other procurement documents issued by Buyer ("Buyer") or oral and written exchanges between the parties. In all such cases, except if included in a signed express agreement to the contrary, the terms and conditions herein shall govern and prevail to the exclusion of all other terms whether oral or written. Acceptance of Buyer's order is conditioned upon Buyer's acceptance of the terms and conditions contained herein irrespective of whether Buyer accepts these conditions by a written acknowledgment, course of dealings, by implication, or acceptance of and/or payment for Products ordered hereunder. AudioCodes' failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions herein. Any changes in the terms and conditions of sale contained herein must specifically be agreed to in writing signed by a corporate officer of AudioCodes before becoming binding on either Party.
  - PAYMENT TERMS.** All prices quoted shall be EXW (Ex Works INCOTERMS 2020), AudioCodes' facility or contract manufacturer. Terms of payment for Products, and other payments due to AudioCodes shall be within thirty (30) days from date of invoice. Unless otherwise provided, all payments are to be in United States dollars. In the event AudioCodes is required to bring legal action to collect delinquent accounts, Buyer agrees to pay reasonable attorney's fees and cost of suit and collection. Late payments shall be charged interest at LIBOR + 2% one month rates, or the maximum rate permitted by law, if lower.
  - TAXES.** All prices are exclusive of any present or future sales, revenue, withholding, value added, or tax, import duty (including brokerage fees, handling and other charges) or other taxes applicable to the manufacture or sale of any Products. Such taxes when applicable shall be paid by Buyer unless Buyer provides a proper tax exemption certificate.
  - TITLE AND DELIVERY.** Sales are EXW (Ex Works INCOTERMS 2020), AudioCodes' facility or contract manufacturer. AudioCodes will use its best efforts to ship in accordance with AudioCodes' confirmed delivery schedule. To eliminate doubt, AudioCodes shall be deemed to be acting as Buyer's agent and all claims for damage to Products in transit must be filed by Buyer with the Buyer's carrier. On-time delivery shall be deemed to be delivery up to 5 days prior to and until 3 days after confirmed delivery date. In the event that Buyer fails to take delivery at the agreed delivery point or delivery time, AudioCodes may deliver the goods to Buyer at Buyer's expense and risk through a carrier of AudioCodes' choice. AudioCodes will use its reasonable efforts to meet Buyer's requested delivery schedules. AudioCodes reserves the right to make deliveries in installments. Delivery delay or default of any installment shall not relieve Buyer of its obligation to accept and pay for remaining deliveries. Buyer shall bear all risk of loss, damage, or destruction to the Products called for hereunder, until final acceptance by Buyer at destination. Buyer shall also bear the same risks with respect to any Products rejected by Buyer, provided, however, that in either case AudioCodes shall be responsible for any loss occasioned by any loss occasioned by the gross negligence of its employees acting within the scope of their employment. AudioCodes shall retain a security interest and right of possession in the Products until Buyer makes full payment. Buyer shall acknowledge to AudioCodes the receipt of each damaged shipment of Products stating quantity, type, and damages existing at delivery, within 14 days of receipt at Buyer's destination. AudioCodes shall not be responsible for any claims in respect of quantity and type made after the foregoing fourteen (14) day period. Title to physical Products shall transfer upon full payment for the Products by the Buyer.
  - SOFTWARE AND FIRMWARE.** All Products that are software or firmware are licensed subject to the terms of AudioCodes' end user software license agreement, the terms of which are hereby incorporated by reference.
  - OPEN SOURCE SOFTWARE.** Portions of the software may be open source software ("Open Source Software") and may be governed by and distributed under open source licenses, including the terms of the GNU General Public License (GPL), and terms of the Lesser General Public License (LGPL), which terms are located at: <http://audiocodes.com/> and all are incorporated herein by reference. In the event of any conflict between the terms of this Agreement or any license agreement(s) that accompany the Open Source Software files, the applicable terms of the later license shall prevail. If any Open Source Software is provided in object code, and its accompanying license requires that it be provided in source code as well, Buyer may receive such source code by sending AudioCodes (to AudioCodes address specified in this Agreement), via registered mail, a certified check for US\$15 to cover AudioCodes' production and shipping costs, and a CD with the appropriate source code will be mailed to Buyer.
- GENERAL WARRANTY.** AudioCodes warrants that general release/available hardware Products shall substantially conform to AudioCodes' published specifications for the Product for the particular configuration ordered for a period of one (1) year from the date of shipment. For a period of three (3) months from the date of shipment, general release/available software products shall substantially conform to AudioCodes' published specifications for the Product for the particular configuration ordered of the most recent generally available software. In the event that the configuration ordered is NOT the most recent general release/available software for the Product – then such software is provided "as is" and without warranty of any kind and WILL not be maintained or supported by AudioCodes unless a separate support/maintenance agreement is entered into and the appropriate fee paid for maintaining an old software version. The software, and any storage media on which software Products are provided, are warranted for 90 days from the date of shipment. Products sold as beta, demonstration or evaluation are sold or provided "as is" without warranty including but not limited to compliance with specifications. The foregoing warranty does not apply to any Products which have been subject to misuse, neglect, accident, or modification or which have been altered and are not capable of being tested by AudioCodes under its normal test conditions. AudioCodes' sole obligation to Buyer hereunder for Products failing to meet the aforesaid warranty shall be, at AudioCodes' discretion, to repair or replace the non-conforming Products or issue Buyer credit for the purchase price of the non-conforming Products, where within the warranty period: 1) AudioCodes has received written notice of any nonconformity; and 2) After AudioCodes' written authorization to do so Buyer has returned the non-conforming Products to AudioCodes, freight prepaid; and 3) AudioCodes has determined that the Products are non-conforming and that such nonconformity is not a result of Buyer's conduct. No Product may be used in a life support application or as single life line. All requests for warranty repairs of hardware shall be made in accordance with AudioCodes' RMA policy, which is hereby incorporated by reference. AudioCodes warrants that Products sold hereunder shall at the time of shipment be free and clear of liens and encumbrances. For services, AudioCodes warrants that the services will be performed in all material respects in accordance with AudioCodes published Specifications (as updated from time to time).
- THIS WARRANTY EXTENDS TO BUYER ONLY AND MAY BE INVOKED BY BUYER FOR ITS CUSTOMERS. AUDIOCODES SHALL NOT ACCEPT WARRANTY RETURNS DIRECTLY FROM BUYER'S CUSTOMERS OR USERS OF BUYER'S PRODUCTS OR DEVICES. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. AUDIOCODES FURTHER DOES NOT WARRANT OR REPRESENT THAT THE PRODUCTS, HARDWARE OR SERVICES WILL ALWAYS WORK UNINTERRUPTEDLY, BE COMPLIANT WITH NATIONAL OR INTERNATIONAL STANDARDS, SECURE, OR ERROR FREE. BUYER ACKNOWLEDGES THAT THE PERFORMANCE OF THE PRODUCT, HARDWARE OR SERVICES MAY BE AFFECTED BY THE ACTS OR OMISSIONS OF THIRD PARTIES AND OTHER CAUSES REASONABLY BEYOND AUDIOCODES' CONTROL. AUDIOCODES SHALL NOT BE LIABLE FOR DAMAGES DUE TO DELAYS IN DELIVERIES OR USE FOR SERVICES. BUYER ACKNOWLEDGES THAT AUDIOCODES DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES.
- IN NO EVENT SHALL AUDIOCODES BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES DUE TO BREACH OF THIS WARRANTY OR FOR ANY INFRINGEMENT ACTION INITIATED BY A THIRD PARTY. BUYER'S SOLE REMEDY FOR ANY BREACH SHALL BE LIMITED TO THE REMEDIES SET FORTH HEREIN AND SHALL NOT EXCEED THE SALE PRICE FOR THE PRODUCTS. ALL LIABILITIES UNDER THIS AGREEMENT SHALL ONLY APPLY TO THE RELEVANT AUDIOCODES' ENTITY NAMED ON THE INVOICE.
- SUPPORT AND MAINTENANCE.** AudioCodes may agree to provide support and maintenance to Buyer subject to the parties agreeing on and entering into an appropriate service agreement, for which an additional fee shall be charged.
  - Buyer acknowledges that it is aware that the Products may contain one or more proprietary, de facto or industry standards such as without limitation G.729 (all annexes), G.723.1 or other standards, rights to which are claimed and/or held by third parties who may claim and/or be entitled to compensation in connection with the Product. It is Buyer's responsibility to obtain any license which may be required directly from holders of such rights. Buyer hereby waives any right to seek damages or other compensation by way of suit or other action against AudioCodes in connection with any such standards. Buyer will also be responsible to include corresponding provisions in their agreements with customers and other third parties, when applicable, in order to release and indemnify AudioCodes from any such obligation described in this provision as regards such third parties.
  - VOLUME COMMITMENT.** In the event that Buyer was quoted prices subject to quantity/volume purchase over a specified period of time, and such quantity/volume is not met, Buyer shall be charged for the difference in price between AudioCodes' recommended sale price (or price quoted to Buyer for lower volume/quantity) and price actually paid by Buyer, at the conclusion of the specified period of time.
  - CONFIGURATION CHANGES/SOFTWARE UPGRADES.** Buyer acknowledges that it is purchasing from AudioCodes the Product with a particular configuration and/or features. In the event that Buyer wishes to activate additional and/or different configuration or features it is obliged to report such issue to AudioCodes and be liable to pay any difference in price. Without derogating from the foregoing limitation, this provision also applies in the event that Buyer wishes to use a Product as server type rather than client type and vice versa.
  - UPDATES/UPGRADES.** In the event that Buyer receives from AudioCodes updates and/or upgrades for Products or services under warranty - such updates and upgrades shall be limited to the products, or services and/or serial numbers stated by AudioCodes, and Buyer is expressly not licensed to apply such updates/upgrades to any other Products, or services.
  - CANCELLATION OR RESCHEDULING OF PURCHASE ORDERS.** Subject to the payment of Cancellation Fees and/or Rescheduling Fees (respectively), and such other terms and conditions set forth in this Agreement, Buyer may either (i) cancel confirmed Purchase Orders; or (ii) defer delivery (reschedule) of Purchase Orders beyond the original scheduled delivery date. The Cancellation Fees and Rescheduling Fees are set forth in the following table:

Number of Days Notice Prior to Delivery Date	Purchase Order is Lower than \$200,000 U.S.		Purchase Order Exceeds \$200,000 U.S.	
	* Rescheduling Fee	Cancellation Fee	*Rescheduling Fee	Cancellation Fee
Exceeds 60 days	\$500	\$500	\$500	\$500
30-60 days	3% of purchase order but not less than \$1000	5% of purchase order but not less than \$1000	8% of purchase order	10% of purchase order
15-30 days	5% of purchase order but not less than \$1000	10% of purchase order but not less than \$1000	10% of purchase order	15% of purchase order
Less than 15 days	10% of purchase order but not less than \$3000	20% of purchase order but not less than \$3000	15% of purchase order	25% of purchase order
3 days or less	100% of the purchase order	100% of the purchase order	100% of the purchase order	100% of the purchase order

Any request for cancellations and/or rescheduling shall be made to AudioCodes in writing and in advance of delivery.

Buyer may not cancel any or all of a Purchase Order (i) relating to customized Products; and/or (ii) for Products made following issuance of a discontinuation notice in the last buy period.

Rescheduling of Purchase Orders shall only be permitted, subject to payment of Rescheduling Fee, (i) once per Purchase Order; and (ii) for a period not exceeding 90 days following the original delivery date; and (iii) subject to payment of Rescheduling Fees. Repeated rescheduling of a Purchase Order and/or any rescheduling for a period exceeding 90 days following the delivery date shall be deemed cancellation. Delivery of Products purchased following a discontinuation notice of a Product, may only be rescheduled until the last delivery date contained in the discontinuation notice.

Any cancellation and/or rescheduling not in accordance with the provisions of these terms and conditions or by prior express signed written agreement of AudioCodes shall incur a restocking fee equal to 100% of the applicable Purchase Order.

Any other changes in purchase orders (such as change of forwarder, billing entity etc.) shall be subject to payment of \$500 handling fee, or such other rates as shall be determined by AudioCodes from time to time. Requests to increase the number of Products in a purchase order shall not be subject to payment of handling fee.

- REMEDIES.** In the event repeated field failures occur with respect to a Product, or a significant field failure occurs which requires immediate attention, AudioCodes and Buyer shall discuss a solution thereof in good faith.
- CONFIDENTIALITY.** All information provided by AudioCodes to Buyer related to financial plans, product development, market plans, cost, pricing terms and strategy and any other confidential information, and the terms and conditions of this Agreement, shall be treated as confidential and not be divulged other than to Buyer's employees, only to the extent necessary in connection with the performance of this Agreement, who have agreed in writing and in advance to be bound by the confidentiality terms substantially similar to those set forth in this Agreement. Buyer shall take all reasonable precautions to ensure that its employees treat such information in a confidential manner. All such information provided to Buyer remains the property of the Buyer. Any materials containing such information, and any copies thereof, shall be returned to AudioCodes upon demand.
- FORCE MAJEURE.** In case of delays in delivery dates, owing directly or indirectly to any cause beyond AudioCodes' control, the anticipated delivery dates shall be deemed extended for a period of time equal to the time lost due to any delay excusable under this provision. AudioCodes shall be entitled to an extension of time for commercially reasonable delays.
- EXPORT CONTROL.** Buyer shall comply with all export and re-export control laws of the United States and shall refrain from sales to countries proscribed by US Regulations or sales without a permit, if such permit is required.
- ENVIRONMENT REGULATIONS.** Buyer shall comply with all environmental laws, regulations and standards, including but not limited to the WEEE Directive 2002/96/EC.
- US GOVERNMENT CONTRACTS.** To AudioCodes' knowledge, the Products or services are not intended for sale to US government institutions and clauses, or compulsory provisions normally inserted by law in the US, shall not apply. Any distribution or license to the United States government, the programs, including documentation, shall be considered commercial computer software and Buyer will place a legend, in addition to applicable copyright notices, on the documentation, and on the media label, substantially similar to the following: NOTICE OF RESTRICTED RIGHTS: "Programs delivered subject to the DOD FAR Supplement are 'commercial computer software' and use, duplication, and disclosure of the programs, including documentation, shall be subject to the licensing restrictions set forth in the applicable AudioCodes' (or its licensee's) license agreement. Otherwise, programs delivered subject to the Federal Acquisition Regulations are 'restricted computer software' and use, duplication, and disclosure of the programs, including documentation, shall be subject to the restrictions in FAR 52.227-19, Commercial Computer Software-Restricted Rights (June 1987). AudioCodes Ltd., 1 Hayarden Street, Airport City, Lod 70151, Israel".

**APPLICABLE LAW.** The application of the United Nations Convention on Contracts for the International Sale of Products is expressly excluded in its entirety from the Agreement. When Buyer's invoice address is outside the United States of America: the terms and conditions contained herein shall be governed by and construed under the laws of the State of Israel without regard to its conflicts of laws rules. Any proceeding brought by a Party arising out of, under or relating to any dispute relating to these terms and conditions shall be submitted to the exclusive jurisdiction of the competent court in the city of Tel Aviv. When Buyer's invoice address is within the United States of America: the terms and conditions contained herein shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflicts of laws rules. In any action to enforce or arising out of this Agreement, the parties hereto each consent to the exclusive jurisdiction of and venue in each of the state and federal courts located in the State of New York.

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### Contact

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