



Avid Technology International B.V.
Carmanhall Road
Sandyford Industrial Estate
Dublin 18, Ireland

Product Sales Terms Terms and Conditions

For use by customers in Germany.

This Agreement between AVID Technology International B.V. ("AVID") and the purchaser/licensee (referred to as "you") listed on the quotation ("Quotation"), is effective upon acceptance by AVID of your signed Quotation. The placing of an order with AVID shall by itself constitute acceptance of these terms and conditions to the exclusion of any additional terms or conditions stated on your order form or any other document referenced by you.

1. Definitions (as used in this Agreement):

(b) "Hardware" means the computer and/or other equipment specified on the Quotation. The Hardware ordered may contain refurbished parts.

(c) "Software" means all software, in object code only, listed on the Quotation and provided by AVID to you hereunder, together with all firmware, technology contained in circuit boards, AVID-authorized updates, replacements or modifications provided to you. The Software may include software licensed to AVID by third parties.

(d) "Product" means an integrated hardware/software system furnished to you by AVID and comprised of the Hardware and/or Software.

2. Price and Payment.

The price and payment terms for the Product(s) are 30 days from date of invoice unless stated otherwise on the Quotation. All prices for the Products are exclusive of all excise, sales, use, transfer and other taxes and duties imposed by any Federal, state, municipal or other governmental authority, all of which taxes and duties must be paid by you. Overdue amounts will bear interest at the rate of 3% above Barclays Bank base rate or such lower rate as is the highest rate permitted by applicable law.

3. Delivery, Risk and Title to the Products

(a) Unless otherwise agreed in writing between the parties, all packing and methods of shipment will be selected by AVID, but AVID will not assume any liability in connection with shipment nor constitute any carrier as its agent. Purchaser agrees to accept partial order shipments, and for such shipments, shall be responsible for paying the partial amount due.

(b) Unless otherwise stated on the Quotation, all sales are CIP (Incoterms 2010) delivery point specified on the Quotation. Risk of loss for Product(s) shall pass upon the earlier of delivery to you or to a carrier for shipment to you. AVID will use reasonable efforts to meet requested delivery dates, but will not be liable for its failure to do so.

(c) Title to the Software shall at all times remain in AVID. For the avoidance of doubt, the copyright and all other intellectual property rights which subsist in the Software are and shall remain the property of AVID. Your right to use the Software is subject to the licence specified in Section 4 of this Agreement.

(d) Subject to sub-Section 3(c), title to the Product(s) shall remain in AVID until full payment of all sums (including VAT or other applicable taxes) due under this or any other Agreement from you to AVID have been made. Until title passes you shall hold all Product(s) as bailee for AVID and as AVID's fiduciary agent and shall store the Product(s) separately from those of third parties at no cost to AVID in such a way that they are easily identifiable as the property of AVID.

(e) Without prejudice to any other rights, if you are in breach of these terms AVID may recover and resell any or all of the Product(s) supplied to you upon demand at any time before title has passed to you. You undertake to give access to your premises and the Product(s) to enable AVID to retake possession of the Product(s).

(f) If you resell any Product(s) in your possession notwithstanding that title in the Product(s) has not passed to you the proceeds of any such resale ("the Resale Proceeds") shall belong to AVID until you have made full payment for the Product(s) and until such time the Resale Proceeds shall be held by you in a fiduciary capacity on behalf of AVID and shall be kept in a separate account without prejudice to AVID's rights to trace the same if you fail to keep such proceeds separate.

(g) For the avoidance of doubt, the parties intend that this Section 3 shall not operate to create or confer any form of security interest over property.

(h) Each sub-section (c) to (g) above shall be construed to take effect as a separate section. If for any reason whatsoever a sub-section should be unenforceable the others shall remain in full force and effect.

(i) Product(s) provided by AVID may be subject to regulations issued by the Department of Trade and Industry and the United States Department of Commerce. These regulations impose restrictions as to the ultimate destination of the Product(s) and require that certain documents be completed and records maintained. You confirm that you are not a denied party and agree to conform with these requirements and further agree not to undertake any export of the Product(s) without prior written consent of the requisite legislative bodies.

4. Software License:

(a) AVID grants, and you accept, a non-exclusive, subject to the terms and conditions of this Agreement, and the terms of the Software license Agreements, the terms of which are available at www.avid.com/legal to use the Software on and in connection with the Hardware.

(b) The Software may be accompanied by a dongle. You are advised to insure your dongles against loss or theft.

5. Confidentiality:

You acknowledge that the Product(s) contain proprietary and confidential property of AVID and/or AVID's licensors (collectively, "Confidential Information") you will not disclose, provide or otherwise make available any such Confidential Information to any person other than your employees who need to have access thereto to carry out their duties.

6. Warranty:

All sales of Product(s) are subject to Avid's Hardware and Software Warranty Statements which are set out at www.avid.com/legal.

7. Limitation of Liability:

UNDER NO CIRCUMSTANCES SHALL AVID OR ITS LICENSORS BE LIABLE FOR AN AMOUNT GREATER THAN PAYMENTS MADE TO AVID BY YOU PURSUANT TO THIS AGREEMENT IN RESPECT OF THE PARTICULAR PRODUCT GIVING RISE TO THE LIABILITY, REGARDLESS OF THE THEORY OF LIABILITY. THIS CLAUSE SHALL ONLY APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. Exclusion of damages:

TO THE FULLEST EXTENT PERMITTED BY ANY APPLICABLE LAW, IN NO EVENT SHALL AVID OR ITS LICENSORS BE LIABLE TO YOU (A) FOR LOSS OF DATA, LOSS OF PROFITS OR REVENUE (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR LOSS OF OPPORTUNITY OR (B) FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE ARISING THEREFROM OR FROM THE SALE OF PRODUCTS(S) OR THE LICENSE OF THE SOFTWARE OR THE USE OF ANY OF THEM OR THE PROVISION OF MAINTENANCE WHETHER BASED UPON WARRANTY, CONTRACT, TORT OR OTHERWISE EVEN IF AVID HAS BEEN INFORMED OF THE LIKELIHOOD OF SUCH LOSS OR DAMAGE OCCURRING.

AVID DOES NOT EXCLUDE (A) LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE OF AVID, ITS EMPLOYEES OR AUTHORISED REPRESENTATIVES OR (B) LIABILITY FOR FRAUD.

9. Default and Termination:

If you fail to perform any of your material obligations hereunder, AVID will offer you 15 days' opportunity to cure such non-performance. Upon expiry of such period without such nonperformance being cured AVID may by immediate written notice terminate this Agreement, including the license of the Software. Termination shall be in addition to any other rights and remedies AVID may have. Within seven days of any such termination of this Agreement by AVID, you will return to AVID the original and all copies of the Software, or, upon AVID's request, destroy such original and copies and provide AVID with written verification of their destruction.

10. Compliance with Laws:

You will be responsible for obtaining all permits or licenses required in connection with the purchase, shipment, installation and use of the Product(s), including any licenses required under the Export Administration Act, the Arms Export Control Act or other laws.

11. General:

(a) No counterclaim or set off by you may be deducted from any payment due on any account whatsoever without AVID's prior written consent.

(b) This Agreement supersedes all prior agreements and understandings between the parties (whether written or oral) related to the subject matter herein and is intended by the parties to be the complete and exclusive statement of the terms of their agreement. Any proposed variations from or additions to this Agreement contained in any purchase order or other communication which you submit to AVID will be null and void unless agreed to in writing by an authorised representative of AVID. You shall have no remedy in respect of any statement, representation, warranty or understanding (whether negligent or innocent) of any person other than as expressly set out herein, in which event the only remedy available to you shall be for breach of contract. Nothing in this section 11(b) shall operate to limit or exclude liability for fraud or other liability which cannot be excluded by law.

(c) If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, so far as permissible, such invalidity or enforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

(d) To the maximum extent legally permissible, no provision of this Agreement shall be enforceable by any third party under any express provision of law or otherwise.

(e) Neither this Agreement nor your rights (including the license) hereunder may be assigned by you, except to a third party which shall have agreed in writing with AVID prior to the assignment to be bound by your obligations to AVID.

(f) The remedies contained herein are cumulative and in addition to any other remedies at law or equity. AVID's failure to enforce, or waiver of a breach of, any provision hereof shall not constitute a waiver of any other breach of such provision.

(g) AVID shall not be considered in default in performance of its obligations hereunder if performance of such obligations is prevented or delayed by acts of God or government, war, riots, acts of civil disorder, labour disputes, failure or delay of transportation or telecommunications, or by vendors or subcontractors, or any other similar cause or causes beyond its reasonable control.

(h) The terms and conditions of this Agreement will be held as confidential by both parties hereto, provided, however, that either party may cite that you are a user of the Product(s).

(i) Except where the local laws of the country in which you are based specifically override and take precedence over any of the terms set out in this document, this Agreement shall be governed by the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the English courts.

12. Amendments if Customer is permanently located in a Country listed in this section 12.

12.1 If you are permanently located in Germany the following shall apply:

12.1.1 Section 6 of these Terms and Conditions shall be supplemented by the following which will take precedence over the "Term of Warranty" provisions in Avid's Hardware and Software Warranty Statements: "Warranty. According to Sec 433, 631 German Civil Code, Avid will, during a warranty period of 12 months starting with delivery, at its option and in its sole discretion, repair or replace any Product which shall prove to be defect. You shall not be entitled to rescind the contract, to reduce the fees, to claim for damages or to perform any other remedy, unless you have set a reasonable deadline to Avid twice to remedy defects at issue and setting of such a deadline is not dispensable."

12.1.2 Section 7 and 8 of these Terms and Conditions shall be deleted and replaced with the following: "Limitation of Liability and Exclusion of Damages. Avid shall be liable for loss or damage caused by it or its respective vicarious agents or subcontractors without limitation (i) if obligations were violated intentionally or with gross negligence, (ii) in case of existence of compulsory legal liability, particularly under the product liability act, (iii) if obligations were assumed in an express warranty (iv) if Avid fraudulently concealed a defect and (v) if physical injury was caused to a person by culpable action or omission and such person has died and/or his/her health has suffered. If such an obligation that is of the essence of the contract was breached by culpable action or omission so that there is a risk of impossibility of achieving the purpose of the contract (cardinal obligation), Avid shall be liable for the loss or damage caused in the amount typical and foreseeable at the time of conclusion of Contract unless liability is unlimited for some reason according sentence 1. Otherwise, liability on the part of Avid shall be excluded, regardless of the legal basis. The maximum liability of Avid arising out of the delivery of Products shall not exceed the actual payment made by you for the Products. In so far as Avid's liability is excluded or limited by the above clauses, this shall also apply to Avid's employees and executives." All claims by you shall be time-barred one (1) year after rendering of the Service unless liability is unlimited for some reason as stated in section 12.1.2 above."

12.1.3 Section 11 (i) of these Terms and Conditions shall be deleted and replaced with the following: "Any disputes arising out of or in connection with this Agreement shall be governed by the laws in force in Germany excluding the application of the United Nations Convention on the International Sale of Goods (CISG). Non-exclusive venue for disputes arising out of or in connection with this Agreement shall be the courts in Munich, Germany".