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# Avid Learning Central (ALC) for Enterprise Subscription Terms & Conditions

These **Avid Learning Central for Enterprise Subscription Terms and Conditions (“Terms”)** are an Agreement between Avid Technology, Inc., a Delaware corporation with principal offices at 75 Network Drive, Burlington, Massachusetts 01803 U.S.A. (“Avid,” “we” or “us”), and you (if registering as an individual) or the entity you represent (if registering as a business) (“Partner” or “You”). Each party to this Agreement may be referred to herein individually as a “Party” or collectively as the “Parties.”

## 1. Term.

- 1.1. The Subscription Term for all Avid Learning Central for Enterprise Subscription offerings (“Enterprise Subscription(s)”) is one (1) year from the start date selected by You at the time of purchase, accounting for actual portal and/or user setup lead times. Multi-year Enterprise Subscriptions may also be offered by Avid. The start date of any Enterprise Subscription must be within sixty (60) days of the purchase date.
- 1.2. Upon expiration of the initial Term, Enterprise Subscriptions may be renewed by the Parties in writing for additional one (1) year terms. Renewal of the Subscription will be at the then-current list price, unless otherwise agreed by Avid. A one-time setup fee shall apply to the initial term of Enterprise and Site Portal Subscription offerings described in 2.1. If an Enterprise Subscription is not renewed within thirty (30) days of expiration of the Enterprise Subscription, user configurations and history, and Custom Content (if any) may be lost, and Avid reserves the right to charge an additional one-time setup fee. All ALC Enterprise Subscription orders and fees are non-cancellable and non-refundable.

## 2. Portal Access.

- 2.1. ALC Enterprise and Site. For ALC Enterprise and Site Portal subscription offerings, you may designate individuals with privileges (“Learning Manager(s)”) to add users in your organization (“Users”) to the ALC portal (“Portal”). If the number of total configured Users materially exceeds the annual contracted amount in Avid’s discretion, Avid reserves the right to charge additional fees (e.g. true-ups) on a quarterly basis and/or upon expiration of the term or at the time of renewal.
- 2.2. ALC Enterprise Individual. For the ALC Enterprise Individual subscription offering, you will designate a single individual user and email address for access to a shared ALC Portal for a single one-year subscription term.
- 2.3. A User and its associated profile in the Portal shall be defined as and used by no more than one individual person. Only employees and contractors of your organization may be configured as Users. Avid reserves the right to deny access to Users from non-approved email domains. You are responsible for the actions of your Users and agree to notify Avid in the event if any unauthorized access of the Portal or use in violation of Avid’s terms and conditions. No resale or redistribution of Subscriptions is allowed, except by an authorized Avid partner.

2.4. Avid will use commercially reasonable efforts to provide high availability to the Portal. To the extent permitted by law, Avid and its suppliers and online service providers give no warranties or guarantees with respect to your use of the Portal, including but not limited to warranties that the services available on the Portal are error-free, fault-tolerant, or uninterruptable; or any loss or return of data and/or files. Where allowed by your local laws, Avid excludes implied warranties, terms and conditions of merchantability, satisfactory quality, fitness for a particular purpose and non-infringement. Avid may interrupt access to the Portal to perform planned or unplanned maintenance.

3. Content.

3.1. Avid Learning Central Content. Avid Learning Central course content (“ALC Content”) is for You and your Users’ use only, and You agree to not copy, adapt, modify, resell or distribute the ALC Content or give any third-party access to the ALC Content. You and your Users shall not use the Portal in any manner that interferes with, damages, accesses or uses in any unauthorized manner the hardware, software, networks or technologies of Avid, its service providers, or of any end user or any other person or entity, or in any way that violates applicable law. Avid may immediately suspend or terminate your access to the Portal in the event of violation of these terms and conditions or for failure to pay subscription fees when due.

3.2. Avid reserves the right to add, update, or remove any and all ALC content and other features of the Avid Learning Central Enterprise Subscription offerings at Avid’s discretion without notice. Avid may offer optional services, such as the development and/or posting of custom content for additional fees and subject to additional terms and conditions.

3.3. Custom Content. If You have purchased optional services for Avid to develop and upload custom content (“Customer-Specific Content”) and/or to have Avid upload your content to the Portal (“Customer-Provided Content”) (collectively, “Custom Content”), You hereby grant Avid the perpetual, nonexclusive right to copy, modify, and perform the Custom Content solely in furtherance of providing the services herein. Avid shall own all right, title, and interest in and to the Customer-Specific Content except for content provided to Avid by You, if any. Customer shall have the right to use the Customer-Specific Content solely in furtherance of the services herein. All intellectual property rights that were owned or developed by the Parties prior to this Agreement shall remain the exclusive property of each respective Party.

3.3.1. Warranties. You represent and warrant that You:

- A) Own and/or have the right to use all materials, in any medium, furnished to Avid by You as part of the Custom Content;
- B) You will not provide materials to Avid that are infringing, obscene, and/or defamatory. Avid shall have sole approval to accept or reject your material before its inclusion in Custom Content; and
- C) You agree to indemnify and defend Avid, its Affiliates and related parties, from and against any claims, damages, losses, costs, expenses or lawsuits (including reasonable outside attorneys’ fees) brought against Avid by a third party alleging the materials provided to Avid by You infringes or misappropriates such third party’s intellectual property rights.

4. Limitation of Liability.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL AVID OR ITS SUPPLIERS AND ONLINE SERVICE PROVIDERS BE LIABLE TO ANY PERSON FOR ANY INDIRECT, SPECIAL, GENERAL, ECONOMIC, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, OR BUSINESS INTERRUPTION), OR FOR ANY DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, UNAUTHORIZED ACCESS OF DATA OR LOSS OF ANTICIPATED PROFITS, IN ANY WAY RELATED TO USE OF OR INABILITY TO USE THE PORTAL OR ACCESS CUSTOMER CONTENT, OR OTHERWISE IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IF AVID HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT WILL AVID'S LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL SUBSCRIPTION FEES PAID FOR THE INITIAL TERM.

5. Force Majeure.

If the performance of this Agreement or of any obligation hereunder is prevented, restricted or interfered with by reason of any cause beyond the reasonable control of the affected Party, such Party, upon prompt written notice to the other Party, shall be excused from such performance to the extent of the aforementioned prevention, restriction or interference, provided that the Party so affected shall use its commercially reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder with the utmost dispatch whenever such causes are removed.

6. Dispute Resolution.

6.1. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts without giving effect to (a) any choice or conflict of law provision; (b) the United Nations Convention on Contracts for the International Sale of Goods; and (c) the Uniform Computer Information Transaction Act. The exclusive venue for any action or proceeding arising out of or relating to this Agreement shall be the federal courts in the Commonwealth of Massachusetts located in Boston; provided, that the state courts of the Commonwealth of Massachusetts located in Boston shall be the exclusive venue if any such action or proceeding lacks federal subject matter jurisdiction.

6.2. Jurisdiction. Each party irrevocably (a) consents to the exercise of personal jurisdiction by such courts, (b) waives any claim of inconvenient forum or other challenge to venue, and (c) agrees that all legal process, summons, notices and documents which may be served in any action or proceeding in such court may be made by sending a copy thereof by recognized express courier service to the party to be served at the address set forth on the first page of this Agreement (in the case of notice sent to Avid) and to your address provided in your ordering document (in the case of notice sent to you), with such service to be effective upon receipt.

6.3. Limitations on Your Remedies. To the extent permitted by law, you agree that (a) no lawsuit or any other legal proceeding against Avid relating to or arising out of this Agreement shall be brought or filed by you or your representatives more than one (1) year after the incident giving rise to the claim occurred; and (b) you will not bring any class action lawsuit (or authorize your representatives bring any class

action lawsuit) against Avid or be a representative plaintiff or plaintiff class member in any such lawsuit. YOU AGREE TO WAIVE YOUR RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT.

7. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Services. These export laws govern the use of the Services (including technical data) and any Services deliverables provided under this Agreement. You agree to comply with all such export laws and regulations (including “deemed export” and “deemed re-export” regulations). No data, information, software programs and/or materials resulting from Services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.
8. Concluding Provisions. This Agreement: (a) shall not be assigned by you without Avid’s prior written consent; (b) may be assigned by Avid without consent; (c) shall be binding upon the respective successors, trustees and permitted assigns of you and Avid; (d) is the product of negotiation and shall not be deemed to have been drafted by you or Avid; (e) contains article and section headings which are for convenience of reference only; (f) does not create a partnership, joint venture, agency, employment, fiduciary or other similar relationship between you and Avid or authorized you to waive any right, or assume or create any contract or obligation of any kind in the name of, or on behalf of, Avid; (g) shall not be construed as giving any person or entity, other than you and Avid and our respective successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof; (h) shall remain valid and enforceable despite the holding by any court or arbitrator that any specific provision is invalid or unenforceable, except for such specific provision; and (i) constitutes the entire agreement and understanding of you and Avid with respect to its subject matter and supersedes all oral communications and prior writings with respect thereto. No provision of this Agreement may be waived orally, but only by a written instrument signed by the party against whom enforcement of such waiver is sought. Avid may amend this Agreement by posting the amended Agreement at [www.avid.com/legal/terms-of-use](http://www.avid.com/legal/terms-of-use). You consent to receive all notices and official communications relating to this Agreement at the email addresses provided in the relevant ordering document or otherwise provided by you.