



Professional Services Terms and Conditions

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These Professional Services Terms and Conditions, together with a signed Statement of Work (“SOW”) and/or a signed Sales Quotation(s), forms an agreement (the “Agreement”) between either Avid Technology, Inc., Avid Technology International BV or Avid Japan KK, being the entity designated in the Sales Quotation, SOW or other contractual document, or such other entity as may be designated in the contractual documents from time to time, (“Avid”) and you, the end-user identified on the Sales Quotation(s) (“You” or “Customer”). Unless otherwise agreed by the parties in writing, these terms apply to the professional services performed by Avid.

1. **Professional Services.** Avid will install, configure and commission products, provide consulting services and/or training (“Services”) at the agreed location, on the date or dates mutually agreed between the parties as detailed on a Sales Quotation, Statement of Work or other contractual document executed by authorized representatives of the parties in writing (any such contractual document setting forth a description of Services referred to herein as a “SOW”). Avid personnel delivering Services on-site are not authorized to bind Avid to any contractual documents.

2. **Services Fees and Payment Terms.** Customer is responsible for payment of fees listed in the Sales Quotations and in invoices issued by Avid. Should any undisputed invoice remain unpaid for more than thirty (30) days, Avid shall have the right to suspend all work until payment is received.

3. **Taxes.** Unless included as a separate item or otherwise agreed in writing, all fees and invoiced amounts are exclusive of any applicable taxes (including goods and services tax or value-added tax), handling, delivery and agents' charges, and any other charge, duty or impost. Customer must pay to Avid in full, on demand, any tax (other than income tax) payable under or in connection with these Terms and Conditions, including any goods and services tax, other value-added tax, customs duty, sales tax, excise duty, stamp duty, other duty or any other governmental charge, fee, levy or impost, together with any fine, penalty or interest payable because of a default by the Customer.

4. **Expenses.** Expenses will be billed “As Incurred” or “Fixed Price”

4.1 **As Incurred.** Customer will reimburse Avid for expenses compliant with the Avid Travel and Expenses Guidelines for Customer Engagements (available at avid.com/services) in effect as of the date of the signed Sales Quotation. Customer agrees to reimburse Avid for such expenses, including travel (economy/coach class air travel), lodging, meals, and other reasonable fees, plus a fifteen percent (15%) transaction fee.

4.2 **Fixed Price.** Customer agrees to pay a fixed amount of expenses for the lifecycle of the project as set forth in the applicable Sales Quotation.

4.3 **Avid will periodically (typically monthly) issue invoices for expenses.**

5. **Basis of Services Fees.** Fees shall be quoted as either “Time and Materials,” “Fixed Fee,” or “Professional Services Recurring.”

5.1 For Time and Materials engagements, the quantities and corresponding price(s) for the Services on the Sales Quotation(s) are estimates and Customer will be invoiced for only those Services that are delivered. The total amount of Services delivered may be more or less than those estimated on the Sales Quotation and Customer agrees to pay for all Services performed in accordance with the SOW. In the event that Services will materially exceed (greater than ten percent (10%) of the initial estimate), Avid will endeavor to notify customer in a timely manner and request a Change Order (if deemed applicable) per Section 7 hereof. Unless otherwise agreed in writing, Avid will invoice Customer monthly as Services are rendered.

5.2 For Fixed Fee engagements, Avid will provide a set price for the project scope to be delivered under the applicable SOW/Sales Quotation and Customer is responsible for payment of that amount regardless of number of Services days delivered, unless the parties enter into a Change Order as set forth in Section 7. Fixed Fee engagements which have not commenced within twenty-four (24) months from placement of the order are subject to debooking by Avid.

5.2.1 Percent Complete Fixed Fee Engagements. Avid will provide a set price for each phase of the project scope to be delivered under the applicable SOW/Sales Quotation. Each month the Customer will be billed based on a percentage of completion of each phase. The Avid project manager will be responsible for determining the percentage complete and ensuring the Customer is kept aware of the progress regarding completion of said phases.

5.2.2 Milestone Based Engagement. Where applicable, Avid will provide a SOW/Sales Quotation in which the project scope will be broken out into fixed price milestones. The scope of work for each milestone will be clearly defined in the SOW. When said work is completed, Avid will invoice for the full amount of the milestone.

5.2.3 Professional Service Recurring Engagement ("PSR"). PSR refers to a determined number of prepaid services hours which are available to be redeemed by Customer during the term of the engagement as set forth on a Sales Quotation. PSR Services will be invoiced annually in advance. Customer and Avid will mutually agree as to the nature of the Services and the estimated effort required. No SOW will be required at the time of order. PSR hours may be applied to any currently available Services offering and are based on Avid standard Services hours. Services provided on weekends, evenings and public holidays will incur an accelerator on the hourly redemption amount. For annual PSR engagements, Services expire twelve months from the date of purchase and any unused hours will not be refunded or carried over to additional terms. For multi-year PSR engagements, a minimum number of hours must be consumed within each 12-month period during the term, as set forth on a Sales Quotation. Unused hours will not carry over to subsequent years during the multi-year engagement or to additional terms.

5.2.4 Training services included in a Fixed Fee engagement must be delivered within twenty-four months from the earlier of (i) the date the Customer signs the Sales Quotation or Statement of Work; or (ii) the date the Purchase Order for the Services has been submitted to Avid, or will expire without refund. Unless otherwise agreed in writing by the parties, Fixed Fee engagements that have not begun within six (6) months from the earlier of (i) the date the Customer signs the Sales Quote or Statement of Work; or (ii) the date the Purchase Order for the Services has been submitted to Avid will expire and be de-booked. If Services are required after the project has been de-booked, they will need to be requoted at the then current rates.

6. License to Deliverables. Upon full and final payment, and with the exception of materials provided as

part of Avid training services, Customer shall have a perpetual, non-transferable except as provided in Section 17.3 below, non-exclusive, fully paid license to use, copy, modify and prepare derivative works of the results of Services delivered to Customer hereunder ("Deliverables"), or have the foregoing done on Customer's behalf, solely for its internal business purposes, subject to any restrictions of any third-party materials embodied in the Deliverables and disclosed to Customer. The foregoing license does not include the right to make video or audio recordings of any training sessions or other activities by professional services personnel unless expressly agreed to in writing by Avid. All rights to any materials owned by Customer or a third-party and incorporated into the Deliverables, shall remain with Customer or the third-party. Other than as set forth expressly herein, all other rights in the Deliverables remain in Avid. Avid shall be free to use the concepts, techniques, and know-how used and developed hereunder relating to Avid's products and Services. Avid shall be free to perform similar services and develop deliverables for itself or any third party that may be similar or which may be competitive with those produced hereunder.

7. Change Orders. The SOW, if applicable, may be amended through a mutually agreed, written amendment ("Change Order"). Change Orders may be used to alter project scope, amend the list of Deliverables, clarify specifications or for other such reasons as the parties may deem appropriate. Either party's project manager may propose a Change Order. Proposed Change Orders must detail the requested SOW change, disclose the impact on the project timeline, fees or expenses, and be signed by each party before taking effect. Neither party's right to reject a proposed Change Order will be unreasonably exercised. In cases when the originator of the Change Order is Customer, within ten working days of receipt, Avid will inform Customer in writing, whether the proposed change would, in Avid's reasonable opinion, result in additional work and/or adversely affect the project timeline, deployment of resources or any other work specified the SOW. Avid will also provide a sales quotation for the estimated cost impact or estimated number of hours required of the proposed Change Order. In cases when the originator of the Change Order proposal is Avid, Customer will accept or decline the Change Order within ten working days following receipt. Avid will not be obligated to deliver Services outside of the scope of the SOW until a mutually-agreed Change Order is signed.

8. Customer Responsibilities. Customer shall provide appropriate, adequate facilities and a safe working environment and otherwise comply with all applicable occupational health and safety laws, regulations and other requirements in order to facilitate the safe completion of the Services. Customer shall ensure the site is ready and accessible in good time and shall provide, in a timely manner, all security accesses required to carry out the Services at the designated site for the period defined in the project plan. It is Customer's responsibility to notify Avid of any policies, such as security and information technology policies that apply to its facilities in advance and provide Avid with copies of such policies prior to any on-site Services. Any delay in Avid's ability to deliver the Services resulting from a failure by Customer to provide sufficient access or suitable site conditions without at least ten business days' notice to allow Avid to reschedule or cancel Services, will be charged to the Customer at Avid's standard contract daily rates plus expenses. Any changes to the project schedule, or cancellation of the project with less than ten business days' notice may result in additional charges to Customer. Such charges in respect of delays will not be credited against Avid's charges for any rescheduled services. Avid will not be held liable for any consequential delays in Services delivery or third party costs as a result of such delays.

9. Confidentiality. Each party may be given access to information (in tangible form, or which is demonstrated, displayed, or disclosed orally) identified by the disclosing party as confidential information, or

reasonably identifiable as confidential information ("Confidential Information"). Subject to Section 6, Confidential Information shall be deemed to include the SOW and any proposal(s) or other correspondence related thereto. Confidential Information may only be used by the receiving party in connection with the project described in the SOW or in order to make use of the license granted above. The receiving party agrees to protect the Confidential Information of the disclosing party in the same manner that it protects its own proprietary and confidential information of like kind, but in no event will it exercise less than reasonable care. Access to the Confidential Information shall be restricted to Avid's personnel and contractors, and Customer's personnel and contractors with a need to know, engaged in a use permitted hereby and subject to a written or professional obligation to maintain the confidentiality thereof. Nothing in these Terms and Conditions or the SOW shall prohibit or limit either party's use or disclosure of information (including, such as, ideas, concepts, know-how, techniques, and methodologies)(i) previously known to it without an obligation of confidentiality, (ii) independently developed by or for it, without reference to or use of the Confidential Information (iii) acquired by it from a third party which is not, to its knowledge, under an obligation of confidentiality with respect to such information, or (iv) which is or becomes publicly available through no fault of the receiving party.

10. **Warranty.** Avid warrants that the Services will be performed in a good and workmanlike manner. Avid shall re-perform any work not in compliance with this warranty, provided that such material non-compliance is brought to its attention within a reasonable time (not to exceed thirty (30) days), after that work is performed. The parties agree that the foregoing remedy is Customer's exclusive remedy for breach of the foregoing warranty. TO THE FULLEST EXTENT PERMITTED BY ANY APPLICABLE LAW, THE PRECEDING IS AVID'S ONLY EXPRESS WARRANTY CONCERNING THE SERVICES AND ANY DELIVERABLES, AND WHERE PERMITTED BY LAW IS MADE EXPRESSLY IN LIEU OF ALL OTHER CONSUMER GUARANTEES, WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, INTERFERENCE WITH ENJOYMENT OR OTHERWISE. This warranty gives you specific legal rights but you may also have other rights which vary from state to state and country to country.

11. **Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY ANY APPLICABLE LAW AND EXCLUDING LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM GROSS NEGLIGENCE OF AVID, OR FRAUD, THE MAXIMUM LIABILITY OF AVID ARISING OUT OF THE PROVISION OF SERVICES, WHETHER BASED UPON WARRANTY, CONTRACT, TORT OR OTHERWISE, EVEN IF AVID HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES, SHALL NOT EXCEED THE ACTUAL PAYMENT MADE BY CUSTOMER FOR THE SERVICES.

12. **Exclusion of Damages.** TO THE FULLEST EXTENT PERMITTED BY ANY APPLICABLE LAW, IN NO EVENT SHALL AVID OR ANY OF ITS RESELLERS, DISTRIBUTORS OR LICENSORS BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, CONSEQUENTIAL OR MULTIPLE DAMAGES, OR FOR LOSS OF DATA OR LOSS OF USE (INCLUDING WITHOUT LIMITATION "DOWNTIME") OR LOST PROFITS ARISING FROM THE PROVISION OF ANY SERVICES OR ANY FAILURE OR DELAY IN PROVIDING SUCH SERVICES HEREUNDER, EVEN IF AVID OR ANY OF ITS RESELLERS, DISTRIBUTORS OR LICENSORS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES.

13. **Termination.** Either party may terminate a SOW for cause in the event that the other party has breached a material term of these Terms and Conditions or the SOW after providing a written notice and a chance to cure the alleged breach. In the event that a SOW is terminated, Customer shall pay Avid for all Services rendered and expenses incurred prior to the date of termination. Termination of a SOW shall be in addition to, and not in lieu of, any legal or equitable remedies available to either party hereto. The parties agree that they will make a reasonable effort to resolve any dispute by negotiation between the parties.

14. Regulatory Approvals. Customer is responsible for obtaining any regulatory approvals and for compliance with all applicable federal, state and local laws and regulations relating to a project and to its use of the services and the Deliverables, including but not limited to securities, antitrust, labor, local zoning, environmental and consumer protection laws.

15. Force Majeure. Neither party will be liable for any delays or failures to perform (excluding payment obligations) due to causes beyond their control, including, but not limited to, government regulation, work stoppages, failure of transportation, suppliers, fires, civil disobedience, embargo, war, riots, rebellions, terrorism, earthquakes, strikes, floods, water or the elements and such events shall extend either party's time for performance under a SOW. The party exercising this clause must provide notice to the other party as soon as practicably possible after becoming aware of the Force Majeure event.

16. Independent Contractors. Each party contracts as an independent contractor, and not as an agent or partner of the other for any purpose whatsoever, and nothing in any SOW creates or shall be deemed to create a partnership, joint venture or similar relationship between such parties. Except as may be specified in writing, neither party has the authority to bind the other party or make any commitments of any kind for or on behalf of the other party.

17. General.

17.1 Neither these Terms and Conditions, nor the terms of any SOW may be modified or amended except by the mutual written agreement of the parties, including by use of the Change Order procedure described in Section 7 above.

17.2 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; For Customers in the Americas and Asia Pacific region (but excluding Australia and New Zealand) these Terms and Conditions, and the services performed under any SOW, shall be governed by, and any court actions hereunder shall apply, the laws in force in the Commonwealth of Massachusetts, United States of America, excluding: (i) the application of its conflicts of law rules; (ii) the United Nations Convention on Contracts for the International Sale of Goods; (iii) the 1974 Convention on the Limitation Period in the International Sale of Goods (the "1974 Convention"); and (iv) the Protocol amending the 1974 Convention, done at Vienna April 11, 1980. Exclusive venue for disputes arising under these Terms and Conditions or any SOW shall be the federal and state courts in and of the Commonwealth of Massachusetts, United States of America, and each of Customer and Avid submits to the exclusive jurisdiction of such courts. For Customers outside of the Americas and Asia Pacific region (but excluding Australia and New Zealand) and also excluding Germany which has its own Terms and Conditions, these Terms and Conditions and the services provided under any SOW shall be governed by the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the English courts. Notwithstanding the foregoing, nothing contained in this section shall prevent either Customer or Avid from seeking equitable relief (such as an injunction) or enforcement of a judgment in whatever jurisdiction as may be appropriate. Except as expressly provided otherwise herein, the remedies contained herein are cumulative and in addition to any other remedies at law or equity. Should any part of these Terms and Conditions or a SOW be held to be invalid for any reason, it is to be replaced with a corresponding text, which is valid and equivalent to the intended meaning of the invalid provision. The other provisions shall remain unaffected and valid. The waiver by any party of a breach or default of any provision of these Terms and Conditions or any SOW or the failure of such

party to exercise its rights under these Terms and Conditions or any SOW in any instance shall not operate or be construed as a waiver of any subsequent breach or default or of any other provision (whether or not similar).

17.3 Neither party shall assign, nor in any manner transfer its rights or obligations or any part thereof in a SOW, without the prior written consent of the other party; provided, however, this restriction shall not apply in the event of an assignment that may occur as a result of the merger or consolidation with or acquisition by another business entity, or the sale of all or substantially all of the assets of the assigning party.

17.4 Avid conducts its business operations through entities it owns or controls, as well as through authorized third-parties. It is understood and agreed by the parties that all business to be conducted by Avid pursuant to a SOW may be conducted by and through such controlled entities and authorized third parties.

17.5 Customer agrees that it shall not, either alone or in association with others until twelve (12) months after completion of the Services hereunder, (i) solicit, directly or indirectly, any employee of Avid to leave the employ of Avid, or (ii) solicit for employment, hire, or engage as an independent contractor any person who was employed by Avid at any time during the term of this Agreement. The foregoing restriction shall not limit Customer's rights to recruit employees or contractors generally (for example, by placing ads or engaging a placement consultant).

17.6 All notices and demands of any kind that either Customer or Avid may be required or desire to serve upon the other party hereunder, shall only be effective when in writing and shall be served for by personal delivery or by U.S. first class certified mail return receipt requested, or private courier service with a tracking service, if to Avid, at 75 Blue Sky Drive, Burlington, Massachusetts 01803 USA, Attention: General Counsel; and if to Customer, to the address listed in the applicable SOW. Service shall be deemed complete upon such delivery. The addresses for notice may be changed at any time by giving fifteen (15) days' prior written notice.

17.7 Sections 9-14 and 16-17, and any confidentiality obligations and obligations to pay amounts that are due and owing but unpaid as of the date of termination shall survive termination of a SOW.