

## 1. GENERAL

**1.1 Application of Terms.** It is expressly agreed between Grass Valley and you (“**Customer**”) that the sale and/or license of the Products, Services, and/or Support Services (as defined below) is governed exclusively by these Terms and Conditions of Sale (“**Terms and Conditions**”). Grass Valley’s acceptance of Customer’s Purchase Order is expressly conditioned upon Customer’s assent to these Terms and Conditions to the exclusion of any additional or different terms or conditions on Customer’s order form or any other Customer documents. No waiver, alteration or modification of any of these Terms and Conditions by Customer shall be valid unless made in writing specifically referencing these Terms and Conditions and signed by an officer or other duly authorized representative of Customer and Grass Valley. Customer’s use of Software whether embedded in Products or provided separately shall be governed by the license terms set forth below. The quantity, description and price of any Products, Services and/or Support Services purchased by the Customer shall be as set out in Grass Valley’s Proposal/Contract, or in the absence of a Proposal/Contract the same shall be as set out in Grass Valley’s invoice. These Terms and Conditions shall apply to all sales of Products, Service and/or Support Services between Customer and Grass Valley until such time as Grass Valley issues a revised edition of these Terms and Conditions or unless otherwise expressly agreed in writing by both parties as described above. “**Grass Valley**” shall mean the Grass Valley legal entity identified in the applicable Proposal/Contract or in the absence of a Proposal/Contract, the Grass Valley legal entity identified on the cover page of the applicable Purchase Order. This may include legal entities with “Grass Valley”, “Quantel”, “Snell”, or “Miranda” in their legal entity name or other Affiliates as may be included in the Grass Valley business overtime.

**1.2 Definitions.** As used in these Terms and Conditions, the following terms shall have the meanings set forth below:

**1.2.1 “Affiliate”** means any entity which directly or indirectly controls, is controlled by, or is under common control with the party. An entity is considered to control another entity if it owns, directly or indirectly, more than fifty percent (50%) of the total voting securities or other such similar voting rights.

**1.2.2 “Contract”** means the Proposal and any other document incorporated as a schedule to the Proposal and accepted by Customer as evidenced by either the issuance of a Purchase Order or the signature of an officer or other duly authorized representative of Customer. In the absence of a Proposal or mutually signed agreement, these Terms and Conditions together with the invoice shall apply exclusively to the sale of Products, Services, and/or Support Services by Grass Valley pursuant to a Purchase Order accepted by Grass Valley.

**1.2.3 “Contractor”** means an individual or business which is not an employee of Customer but is hired by Customer to perform certain information technology tasks for Customer’s benefit provided that such tasks are not prohibited under this Agreement.

**1.2.4 “Deliverables”** means work product supplied by Grass Valley to Customer as part of the Services as may be described in a Purchase Order or Statement of Work.

**1.2.5 “Documentation”** means the written technical documentation published by Grass Valley regarding the Software and identified as “Manuals,” “Release Notes” or “Software Specifications” training document, configuration information, and available on Grass Valley’s website on the “Resources” pages from time to time, accompanying Product delivered to the Customer or expressly agreed to by Grass Valley in a Statement of Work. All data sheets, brochures, samples, drawings and description matter issued by Grass Valley or a Grass Valley Affiliate or contained in its advertising materials are issued or published for guidance purposes only and shall not form part of the Documentation or the Proposal/Contract.

**1.2.6 “Hardware”** means the Grass Valley and/or Grass Valley Affiliate equipment, modules or other physical components and goods purchased by Customer. Hardware includes Grass Valley purpose built Hardware with Embedded Software as well as information technology type Hardware like a generic pc or server.

**1.2.7 “Licensed Program”** means whichever features of the Software are enabled by the Software protection mechanism corresponding to the configuration or product model licensed. Any portion of the Licensed Program contained or merged into another program will continue to be subject to these Terms and Conditions.

**1.2.8 “Location”** means any Grass Valley pre-approved Customer authorized site at which a Product is installed.

**1.2.9 “Product(s)”** means (i) Hardware, to the extent Customer purchased Hardware, (ii) Software, to the extent Customer purchased Software, (iii) any combination thereof, to the extent Customer purchased Hardware together with Software, or (iv) Deliverables, to the extent Customer purchased Deliverables.

**1.2.10 “Proposal”** means the final quotation document submitted by Grass Valley to Customer together with these Terms and Conditions. Unless otherwise indicated in writing by Grass Valley, Grass Valley Proposals are valid for thirty (30) days from date of issuance.

**1.2.11 “Services”** means those professional services provided to Customer by Grass Valley particularly described in an applicable Statement of Work and/or Proposal/Contract, to the extent Customer purchased such Services.

**1.2.12 “Purchase Order”** means Customer’s written purchase request for Hardware and/or Software and/or Services and/or Support Services, whether received by mail or by electronic means submitted by Customer pursuant to a Contract/Proposal, excluding any different or additional terms or conditions on Customer’s form. Such Purchase Order shall include the quantity and type of Product(s) ordered Products descriptions, shipment and invoice information and shipping instructions (if allowed by Grass Valley), Customer’s order number and the Proposal number(s).

**1.2.13 “Software”** includes the Licensed Program and means any software provided pursuant to these Terms and Conditions on DVD, via a Grass Valley or other web-site, or on another medium or through another delivery mechanism, or via a Grass Valley Affiliate, reseller or distributor, including (i) the Grass Valley software and/or firmware used in or with the Hardware and embedded in, dependent upon or loaded onto the Hardware in object code format (“**Embedded Software**”); (ii) Grass Valley application software products which are provided to Customer independently of the Hardware (“**Stand Alone Software**”); and (iii) Grass Valley application software products which are provided to Customer with information technology type hardware such as a generic pc (“**Application Software**”). Software also includes any Documentation specifically applicable to the Software. For a complete list of Standalone Software, Embedded Software, or Application Software with IT Hardware please see the Software Warranty Appendix located at [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions). “Software” also includes other software, new versions, Updates, Upgrades, options, bug fixes, error corrections, modifications, enhancements, and other releases, if any, to the extent provided to Customer under these Terms and Conditions. Nothing in these Terms and Conditions shall constitute or be deemed to constitute an obligation of Grass Valley to provide any Software, Documentation, or other software, new versions, Updates, Upgrades, options, bug fixes, error corrections, modifications, enhancements, and other Software releases unless duly purchased as required by these Terms and Conditions. The term “purchase” when used with respect to Software means to acquire a license to use Software (not to acquire title to the Software).

**1.2.14 “Statement of Work”** means the applicable Grass Valley or Grass Valley Affiliate Statement of Work available at its website or if none a document mutually agreed to by the Parties that should contain the following: services description, assumptions and dependencies, milestones (if any), and acceptance terms.

**1.2.15 “Support Services”** means the applicable maintenance and support services offered under Grass Valley’s branded GV Foundation, GV Prime and GV Prime Plus Support Services offerings as further defined in Section 10 hereof, or under a separate written agreement for a customized offering negotiated and signed by the parties (as applicable), to the extent Customer purchased such Support Services. Support Services, to the extent Customer purchased the same, are in addition to any Warranty Support, if any, offered by Grass Valley during the applicable Warranty Period. Support Services will not be provided for third party product.

**1.2.16 “Technical Hardware Specification”** shall mean the technical documentation published by Grass Valley or a Grass Valley Affiliate, as the case may be, regarding the Hardware and expressly identified as the Specification for the Hardware available on Grass Valley’s website. All data sheets, brochures, samples, drawings and description matter issued by Grass Valley or a Grass Valley Affiliate or contained in its advertising materials are issued or published for guidance purposes only and shall not form part of the Technical Hardware Specification or the Proposal/Contract.

**1.2.17 “Update”** means any bug fixes and minor enhancements to the Software that are commercially released and generally made available by Grass Valley in the form of an update. “**Upgrade**” means enhancements to the Software in the form of new or improved functionality or features, to the extent made available by Grass Valley in the form of an upgrade.

**1.2.18 “Warranty Support”** means the Support Services provided under Section 9.4 which are only available during the applicable Warranty Period.

## 2. FEES AND PAYMENT TERMS

2.1 Prices and/or fees quoted by Grass Valley are exclusive of any taxes, (including any Value Added Tax where applicable), levies, duties, or other governmental charges, shipping, and insurance.

2.2 Any and all taxes, (including any value added tax where applicable), levies, duties and governmental or other charges of any nature, present or future, imposed on Grass Valley or which Grass Valley has a duty to collect in connection with the sale, delivery, or use of any Product, Services or Support Services will appear as separate items on the invoice. If Customer is required by law to withhold any amount of tax from its payment to Grass Valley, the amounts otherwise payable hereunder shall be grossed up so that Grass Valley receives the same net amount it would otherwise have been entitled to receive and the parties will take all reasonable steps to minimize such withholding tax.

2.3 Customer understands that Customer may receive multiple invoices from Grass Valley for the Products, Services, and/or Support Services, Customer ordered. Upon each shipment of Hardware and/or delivery of Software (whether by physical delivery of media or electronic download), Grass Valley will issue an invoice to Customer's address specified in the Purchase Order. Embedded Software will not be subject to separate Software license fees unless set forth in the Proposal/Contract. Grass Valley's standard invoice payment terms are net thirty (30) calendar days of the date of invoice unless otherwise specified in the applicable Proposal/Contract or otherwise agreed to in writing by the parties, regardless of when the Products are placed into service or whether ancillary commissioning or related services have been offered or performed by Grass Valley. Where prepayments or advance deposits are required as specified in the Proposal/Contract or otherwise agreed to in writing by the parties, such prepayments or advance deposits shall be due immediately upon issuance of the Purchase Order by Customer to Grass Valley or immediately upon receipt by Customer of the applicable invoice from Grass Valley. For Services (including but not limited to training Services), invoices will be issued in advance of performance of the Services and at the time of first Hardware shipment or Software delivery, unless otherwise specified in the Proposal/Contract. Customer shall be fully responsible for any actual third party costs, penalties or charges resulting from Services which are cancelled by the Customer after scheduling and prior to performance. Support Services fees are invoiced annually in advance as more specifically set forth in Section 10. In the event Customer fails to pay Grass Valley's invoice in full in due time, Grass Valley shall be entitled to suspend the performance of its obligations until Customer has paid all amounts due. All overdue payments also shall be subject to a late payment interest at the rate of one and one-half percent (1.5%) per month (or the maximum allowable by law) from the due date until the date when all outstanding payments have been made in full. Customer agrees to pay any third-party collection expenses, including attorneys' fees, incurred by Grass Valley to collect any unpaid amounts. All payments shall be made in the currency specified in Grass Valley's Proposal/Contract.

2.4 All payment terms are subject to prior credit approval by Grass Valley. Grass Valley may reject any Purchase Order, change its credit terms, suspend performance or cancel any accepted Purchase Order, in its sole discretion when, in Grass Valley's reasonable determination, Customer's financial condition or record of payment so warrants, or Grass Valley's internal booking or debooking policy so warrants. In addition, Grass Valley reserves the right to cancel or amend any accepted Purchase Order if for any reason it becomes unable to fulfill Customer's Purchase Order. In each such case, notice of Grass Valley's action will be promptly given to Customer. The amendment or cancellation will be deemed accepted by Customer unless rejected by Customer within ten (10) calendar days of the date of such amendment or cancellation. If Customer chooses to reject the amendment or cancellation, Grass Valley may terminate the related Proposal/Contract or SOW without further liability. Grass Valley is not obligated to sell to Customer any Product, Service or Support Service ordered by Customer until such time as Grass Valley has accepted the applicable Purchase Order. Acceptance of a Purchase Order by Grass Valley shall be (a) by general acknowledgement transmitted by facsimile or electronic mail, or (b) by commencement of performance by Grass Valley. Before accepting a Purchase Order Grass Valley may require to receive a signed original of the Proposal, Contract or Purchase Order.

For Purchase Orders relating to the replacement of discrete, identifiable, serial numbered components that can be shipped as a complete component ("Exchange Component") under an Advance Exchange Hardware service agreed to by Grass Valley pursuant to Customer purchased GV Foundation, GV Prime, and GV Prime Plus Support Agreement or other Proposal/Contract specifically providing for the same, upon receipt of the Exchange Component, Customer has thirty (30) calendar days to tender the defective component to the return carrier for shipment to Grass Valley's service center. If Customer fails to return the defective component to the specified carrier, Customer will be invoiced for the Exchange Component at

its then current Grass Valley published list price. Such failure also may be grounds to suspend any future Advance Exchange Hardware service, until such outstanding defective component is returned to Grass Valley.

## 3. SHIPMENT, DELIVERY, RISK OF LOSS, TITLE, TRANSFER, ACCEPTANCE

3.1 All Products shall be shipped to Customer's shipping address or as agreed and specified in the applicable Proposal and the Products shall then be deemed to have been delivered to Customer and accepted upon shipment. Any loss of, or damage to, the Products shall be at the risk of Customer from the date of delivery of the Products to the carrier point of shipment (FCA Grass Valley's initial shipping location unless expressly agreed otherwise in writing by Grass Valley). For Customers in the USA only, Grass Valley may agree to use FOB Origin, in which case it will be stated in the applicable Purchase Order and acknowledged by Grass Valley. Customer shall insure the Products against loss or damage as may be appropriate. Any insurance proceeds received by Customer in respect of unpaid Products shall be held in trust for Grass Valley payable upon demand. Under no circumstances will Grass Valley be responsible for or liable for any delays or failure by the shipping service to ship or deliver the Products to Customer. Except as expressly agreed to by the parties, Customer will be solely responsible and liable for all shipping and handling costs for the delivery of the Products. In the event of default by Customer, Grass Valley may decline to make further shipments. If Grass Valley elects to continue shipments, Grass Valley's action shall not constitute a waiver of any such default or affect Grass Valley's legal remedies for such default.

3.2 Grass Valley will schedule shipments based on Customer's requests and Grass Valley's estimated shipping capability provided the Purchase Order requests shipment within twelve (12) months from the date of the Purchase Order. Grass Valley may make partial shipments unless Customer and Grass Valley specifically agree otherwise.

3.3 Title and risk to the Products shall transfer from Grass Valley to Customer at the point of shipment, unless Grass Valley expressly agrees otherwise in writing.

3.4 Once accepted by Grass Valley, Customer is not entitled to cancel or amend any Purchase Orders. Notwithstanding the foregoing, Grass Valley may (in its sole discretion) allow cancellation or partial cancellation or rescheduling of any Purchase Order, in which case Customer shall pay to Grass Valley a restocking (or rescheduling) charge to be determined by Grass Valley. The restocking or rescheduling charge will vary by Product and Purchase Order and will not constitute a waiver by Grass Valley of any other rights it may have under law for such cancellation or rescheduling.

## 4. SECURITY INTEREST

Grass Valley reserves and Customer hereby grants a security interest in each Product/Deliverable until the entire amount due has been paid to Grass Valley. Upon the request of Grass Valley, Customer agrees to take such actions, including without limitation executing and delivering such documents and instruments, as may be necessary or proper to evidence, perfect, maintain and enforce such security interest.

## 5. INTELLECTUAL PROPERTY

5.1 **Ownership by Grass Valley.** Grass Valley and or its applicable Affiliate retain all right, title, and interest in and to its intellectual property rights relating to the Products and their use. Customer agrees and acknowledges that it shall not obtain any right or license under any intellectual property rights, whether express, by implication, estoppel, or otherwise, with respect to any Software embedded in or otherwise provided or used with the Products under these Terms and Conditions or as a result of Grass Valley's shipment of Products hereunder. Customer acknowledges and agrees that Grass Valley or one of its Affiliates (or its suppliers or licensors, as applicable) owns and shall retain all right, title and interest in and to the Software (including any copies, portions, extracts and derivatives thereof) and any and all intellectual property rights throughout the world relating thereto (including, without limitation, any and all copyrights, neighboring rights and similar rights, and any and all rights in and to databases, designs, industrial designs, utility models, trademarks, trade names, trade dress, service marks, trade secrets, know-how and other confidential or proprietary information, patents, and other intellectual or industrial proprietary rights and the subject matter thereof, and any rights related to any of the foregoing, including, without limitation, rights in, to or under applications, filings, registrations or renewals).

5.2 **Ownership of Pre-Existing Works.** If Grass Valley is providing Services to Customer, the following terms shall also apply with respect to ownership of intellectual property.

5.2.1 The intellectual property rights in any materials or Software (whether written or machine-readable) created by or licensed to Grass Valley or one of its

Affiliates prior to the commencement of the term of an applicable Statement of Work or outside such engagement and any subsequent modifications to same (“Grass Valley Pre-Existing Works”) will remain vested in Grass Valley or one of its Affiliates or a third party (pursuant to subsection 9.7 below), provided that Customer will have a license to use them in accordance with the license provisions below. The intellectual property rights in any materials or software created by, owned by or licensed to Customer prior to the commencement of the term of an applicable Statement of Work and any subsequent modifications to the same (“Customer Pre-Existing Works”) will remain vested in Customer, provided that Customer will grant a limited license to Grass Valley for the purpose of using such rights in connection with the performance of Services under the applicable Statement of Work.

**5.2.2 Ownership of Deliverables.** Except as previously agreed in writing, Grass Valley or one of its Affiliates (as determined by Grass Valley) will own all intellectual property rights in all Deliverables, except for Customer Pre-Existing Works (expressly specified as required below) which are incorporated into the Deliverables, and in all other materials or software created under the applicable Statement of Work whether by or on behalf of Grass Valley. Customer will have a non-exclusive, non-transferable license to use these Deliverables in accordance with the license provisions below. If any Deliverable is not specified in any applicable SOW as “Customer Pre-Existing Works,” the Deliverable will be considered owned by Grass Valley or one of its Affiliates pursuant to the terms of this Section. The tangible medium containing Deliverables, if any, become the property of the Customer as of when such Deliverable is shipped to Customer.

**5.2.3 Notwithstanding any other provisions of these Terms and Conditions,** the use of any Grass Valley or Grass Valley Affiliate Deliverable consisting of software will be subject to Grass Valley’s software license.

**5.2.4 Each party grants the other only the licenses and rights specified.** No other licenses or rights (including licenses or rights under patents) are granted.

**5.2.5 The transfer to Customer of any title in the Deliverables to the limited extent permitted herein is subject to payment by Customer of amounts due under the applicable Statement of Work.**

**5.2.6 Notwithstanding any other provision of these Terms and Conditions,** Grass Valley and its Affiliates will not be prevented or restricted by these Terms and Conditions from using any technique, idea, concepts or know-how relating to Grass Valley or its Affiliates’ business activities.

## 6. SOFTWARE LICENSE

The Software License in the Grass Valley Global Terms and Conditions of Sale available at Grass Valley’s website at:

[http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions)

shall apply to any and all Software: (i) which is the subject of a Purchase Order issued by Customer to Grass Valley or one of its authorized distributors or resellers, (ii) which is delivered to Customer in the form of an Update or Upgrade, or (iii) which is otherwise obtained by Customer.

## 7. CONFIDENTIALITY

Each party acknowledges that during the term of the Proposal/Contract, each party and its Representatives (as defined herein) may be exposed to information of a confidential or proprietary nature which is either marked as confidential or provided under circumstances reasonably indicating it is (“Confidential Information”). Each party agrees to (i) hold such Confidential Information in confidence using the same degree of care normally used to protect its own proprietary and/or confidential information within its own organization, but not less than a reasonable degree of care; (ii) use such Confidential Information only for the purpose of performing under these Terms and Conditions and for no other purposes; (iii) restrict disclosure of such Confidential Information solely to its Representatives with a need to know in connection with the performance of the applicable Proposal/Contract (and provided that such persons are advised of the obligations assumed herein and are bound by obligations of confidentiality and non-use to protect the disclosing party’s rights and interest hereunder), and (iv) shall not disclose such Confidential Information to any third party that is not a Representative of receiving party, without prior written approval of the disclosing party. “Representative(s)” of a party means that party’s (and such party’s Affiliates’) directors, officers, partners, employees, contractors, consultants, agents, advisors, attorneys, potential financing sources, and potential joint venturers. The foregoing restrictions on the use and/or disclosure of Confidential Information shall not apply to any portion of the Confidential Information: (i) that is independently developed by the receiving party without any use of the disclosing party’s Confidential Information (ii) that is publicly known at the time of disclosure or which

thereafter becomes publicly known through no wrongful act of the receiving party as of the date such information becomes publicly known, (iii) that at the time of disclosure to the receiving party was known to such party free of restriction; or (iv) that the disclosing party agrees in writing is free of such restrictions. Notwithstanding anything to the contrary in these Terms and Conditions, the restrictions on the use or disclosure of Confidential Information shall expire five (5) years after termination or expiration of the Proposal/Contract term. Obligations with respect to any trade secret shall survive for as long as such Confidential Information is considered a trade secret under the Uniform Trade Secrets Act (UTSA). Notwithstanding the foregoing, the receiving party may disclose Confidential Information as required by law. If the receiving party is required by law or by interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process to disclose any Confidential Information, to the extent permitted by applicable law such party will provide the disclosing party with prompt, prior written notice of such request or requirement so that the disclosing party may seek an appropriate protective order and/or the receiving party’s compliance with the provisions of this Agreement. In no event shall these Terms and Conditions be construed to prohibit and Grass Valley shall be entitled to use or develop for any purpose, including without limitation, use in development, manufacture, promotion, sale and maintenance of its own or its customers’ products and services any information which may be retained as general, non-party specific, know-how, ideas, processes or expertise in the unaided memories of its personnel.

## 8. INDEMNIFICATION AND LIMITATION OF LIABILITY

**8.1 Subject to the limitation on liability in Section 8.4,** Grass Valley, at its own expense, shall defend any suit brought against Customer insofar as it is based upon a claim that one or more of the Products, as and in the form provided by Grass Valley and in the territory where such Product is installed, directly infringe any third party’s copyright, and shall indemnify Customer against any final award of damages or costs by a court of competent jurisdiction in any such suit that are attributable to such claim or will pay the part of any settlement that is attributable to such claim. This indemnity is conditional upon (i) Customer giving Grass Valley prompt notice in writing of any suit for such infringement, and full assistance and cooperation in the defense, including all documents and information reasonably requested by Grass Valley, and (ii) Grass Valley, at its option, having sole control and authority over such claim and the defense and any settlement thereof.

**8.2 In its defense or settlement of any claim,** Grass Valley at its own election and expense may (i) procure for Customer the right to continue using the Product or any infringing part thereof, (ii) modify such Product or any infringing part thereof so as to become non-infringing, (iii) replace the Product or any infringing part of the same with other software or hardware, as the case may be, of substantially similar capability or (iv) provide Customer an opportunity to return the Product for a refund of the depreciated purchase price provided that the Customer shall thereafter cease using the Product. The depreciation will be calculated at a rate of twenty-five percent (25%) per year on a straight-line basis.

**8.3 Grass Valley and its Affiliates shall have no obligation and liability if the action or claim for infringement is due to (i) a Product designed, manufactured, or modified to the requirements of Customer, (ii) Customer’s use of the Product in combination with other equipment or software other than the equipment and/or software with which the Product was intended to be used; (iii) Customer’s modification of the Product without Grass Valley’s prior written consent; (iv) the use of third party software, (v) the use of Open Source software, (vi) any unauthorized use of the Product by Customer or any third party, (vii) use of the Product, other than the most recent version of the Product with all Updates, if such infringement or misappropriation would have been avoided by the use of the most recent version with all Updates and such Updates were made available to Customer; or (viii) use of the Product after notice of the alleged or actual infringement, from Grass Valley or any appropriate authority.**

**8.4 IN NO EVENT SHALL GRASS VALLEY AND/OR ITS AFFILIATES BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES BY REASON OF ANY ACT OR OMISSION OR ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS OR THEIR SALE, DELIVERY, INSTALLATION, WARRANTY, MAINTENANCE, OPERATION, PERFORMANCE OR USE, INCLUDING WITHOUT LIMITATION ANY LOSS OF USE, LOSS OF DATA, BUSINESS OR GOODWILL, INTERRUPTION IN USE OR AVAILABILITY OF DATA, STOPPAGE OF WORK OR IMPAIRMENT OF OTHER ASSETS, DIMINUTION OF VALUE, LOST REVENUES, INCOME OR PROFITS, COSTS OF CAPITAL, DAMAGE TO ASSOCIATED PRODUCTS OR EQUIPMENT OR TO FACILITIES, COSTS OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES, COSTS ASSOCIATED WITH DOWN TIME, COSTS OF REPLACEMENT POWER, AND ANY SIMILAR OR DISSIMILAR LOSSES, COSTS OR DAMAGES. FURTHERMORE, GRASS VALLEY AND ITS AFFILIATES’ LIABILITY TO CUSTOMER FOR ANY CLAIM OR RECOVERY OF ANY KIND HEREUNDER SHALL IN NO EVENT EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCTS, OR FEES PAID FOR SERVICES AND/OR SUPPORT SERVICES WITH RESPECT TO WHICH SUCH A CLAIM OR RECOVERY IS MADE. THIS**

LIMITATION SHALL NOT APPLY TO LIABILITY THAT BY LAW CANNOT BE SO RESTRICTED.

8.5 THE FOREGOING SECTIONS SET FORTH CUSTOMER'S SOLE AND EXCLUSIVE RIGHT AND REMEDY, AND GRASS VALLEY'S SOLE AND EXCLUSIVE OBLIGATION AND LIABILITY, WITH RESPECT TO CUSTOMER, ANY PURCHASE ORDER, THE PURCHASE, SALE AND USE OF ANY PRODUCTS, SERVICES AND/OR SUPPORT SERVICES AND ANY ACTUAL OR ALLEGED INFRINGEMENT, MISAPPROPRIATION, OR OTHER VIOLATION OF ANY INTELLECTUAL PROPERTY OR OTHER RIGHTS OF ANY THIRD PARTY.

#### 9 WARRANTY

The Warranty terms set forth in Section 9 of the Grass Valley Global Terms and Conditions of Sale available at Grass Valley's website at [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions) shall apply as applicable to Grass Valley Products purchased by Customer.

#### 10 SUPPORT SERVICES

When purchased, the Support Services Terms and Conditions set forth in the Grass Valley Global Terms and Conditions of Sale available at Grass Valley's website at [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions) shall apply to the applicable Grass Valley Support Services contract ("Support Agreement").

#### 11 PROFESSIONAL SERVICES

The applicable Statement of Work ("SOW"), if any, for any purchased Grass Valley standard professional services offerings may be available at Grass Valley's website currently at [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions) (or such other website as Grass Valley may designate from time to time) and is incorporated herein by reference. All other SOWs shall be incorporated herein and: (i) attached to the Proposal/Contract and shall be binding upon the acceptance of a Purchase Order from Customer by Grass Valley or (ii) shall be delivered to Customer and shall be binding when signed by the parties. All Services provided by Grass Valley shall be governed by the Proposal/Contract including the Terms and Conditions set forth in the Grass Valley Global Terms and Conditions of Sale available at Grass Valley's website at [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions) and the applicable Statement of Work, unless the parties expressly agree otherwise in a writing signed by both parties.

#### 12 EXPORT RESTRICTIONS

Customer shall not export, re-export, or transfer, directly or indirectly any product or technical data received hereunder, to any country or user to which such export, re-export or transfer is restricted by United States or local country law or regulation without first obtaining any required governmental license, authorization, certification or approval. If Customer resells or otherwise disposes of any product or technical data purchased hereunder, it will comply with any export restrictions applicable to such transfer and Customer hereby agrees to indemnify and hold Grass Valley harmless against any and all losses, damages and costs resulting from any non-compliance by Customer. Grass Valley shall have no liability for delayed delivery or non-delivery resulting from denial, revocation, suspension or governmental delay in issuance, of any necessary export license or authority. By accepting this Agreement, Customer confirms that it is not located in (or a national resident of) any country under U.S., EU or Canadian Economic embargo or sanction, not identified on any U.S. Department of Commerce Denied Persons List, Entity List of proliferation concern, on the US State Department Debarred Parties List or Treasury Department Designated Nationals exclusion list, and not directly or indirectly involved in the financing, commission or support of terrorist activities or in the development or production of nuclear, chemical, biological weapons or in missile technology programs, and hardware, software, technology, or services may not be exported, re-exported, transferred or downloaded to any such entity.

#### 13 FORCE MAJEURE

No party shall be liable for any failure to perform or delay in the performance of its obligations if the same is partly or wholly delayed or prevented by an event of force majeure, defined as an event which is beyond the reasonable control of the parties, such as but not limited to Acts of God (e.g. floods, earthquakes, hurricane), epidemics, fires, explosions, strikes, riots, war, rebellions, sabotage, act or threat of terrorism, shortage in supplies from normally reliable sources, embargo, governmental act or omission (e.g. delay or failure to issue, suspension or withdrawal of any license, permit or authorization), labor disputes, delay from a subcontractor caused by an event of force majeure as defined herein, or other similar occurrence beyond the control and without the fault or negligence of the affected Party. Any such delay or failure shall

suspend the project schedule until the delay or failure ceases, and the project schedule shall be deemed extended accordingly.

#### 14 WAIVER

The failure of either party to enforce any provision of these Terms and Conditions shall not be construed as a waiver of such provision or the right thereafter to enforce each and every provision. No waiver by either party, express or implied, of any breach of these Terms and Conditions shall be construed as a waiver of any other breach of such term or condition.

#### 15 ASSIGNMENT

Customer may not assign or otherwise transfer its rights or obligations under these Terms and Conditions without the prior written consent of Grass Valley. No attempt to assign or transfer in violation of this provision will be binding upon Grass Valley. Any proposed assignee or transferee must agree in writing to be bound by all the terms, conditions, and obligations of this Agreement. Notwithstanding Grass Valley's agreement to any such assignment, Customer shall remain subject to the obligations of confidentiality set forth in this Agreement. Grass Valley may assign or otherwise transfer its rights and obligations under these Terms and Conditions and any Purchase Order.

#### 16 APPLICABLE LAW

The construction, validity and performance of these Terms and Conditions (and any dispute, claim or obligation under it, whether contractual or non-contractual) shall be governed as set forth in this Section 16. For purchase made in Japan of Products or Services which will be located in and/or performed in Japan, the laws of Japan will apply. For Customers located in the Asia Pacific region of the world, any dispute arising out of or in connection with these Terms and Conditions, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference in this clause. The tribunal shall consist of one arbitrator. The language of the arbitration shall be English. For Customers located in the UK or Europe, the construction, validity and performance of these Terms and Conditions (and any dispute, claim or obligation under it, whether contractual or non-contractual) shall be governed by the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English courts. All proceedings shall be conducted using the English language and, in the event that all or any part of this Contract is translated, the English language version shall be the governing version. For all other Customers, the parties hereby consent to the non-exclusive jurisdiction of and venue in the Superior Court of the State of Delaware and the United States District Court for the adjudication of any disputes arising under this Agreement, and will not assert as a defense lack of personal jurisdiction or *forum non conveniens*. These Terms and Conditions shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded. Each of the parties consent the jurisdiction of the courts of State of Delaware, United States.

#### 17 NOTICES

All notices shall be given in writing and deemed effective upon receipt. Notices to Customer will be sent to the ordering office or other address shown on the Purchase Order. Notices to Grass Valley should be sent to the Grass Valley entity identified on the Proposal/Contract.

#### 18 SEVERABILITY

If any provision of these Terms and Conditions is determined to be unenforceable or invalid by court decision, these Terms and Conditions will not be rendered unenforceable or invalid as a whole, and the provision will be changed and interpreted so as to best accomplish the objectives of the original provision within the limits of applicable law and the remainder of the agreement shall remain in full force and effect.

#### 19 LANGUAGE

These Terms and Conditions may be provided in multiple languages. The governing language shall be the English language and any translation is provided solely for information only. In the event of a conflict between the English language and its translation, the English language shall prevail. For sales in Canada, the parties declare that they have requested, and hereby confirm their request, that this contract be drafted in the English language. Les parties déclarent qu'elles ont exigé, et par les présentes, confirment leur demande que ce contrat soit rédigé en anglais.

## 20 AUDIT RIGHTS

Upon reasonable notice from Grass Valley to Customer, Customer will provide Grass Valley or its agents access to, from time to time, Customer's facilities and records in order for Grass Valley to determine whether Customer is in compliance with the provisions of these Terms and Conditions, provided, however, such audit or inspection shall be exercised so as not to unreasonably interfere with Customer's business. If such inspection discovers a material breach of these Terms and conditions by Customer, then Customer shall pay the reasonable cost of the audit and inspection.

## 21 DISPUTE RESOLUTION

Disputes, controversies or claims may arise between the Parties. To minimize the expense to and impact on each Party of formally resolving such disputes, controversies and claims in accordance with the Applicable Law Section above, the Parties will first attempt to resolve any controversy or claim arising out of or relating to any Proposal/Contract or Purchase Order.

## 22 USE OF CUSTOMER NAME

In consideration of the Products, Services and/or Support Services purchased pursuant to any Proposal/Contract, Customer agrees that Grass Valley may use Customer's name and logo to identify Customer as a customer of Grass Valley on Grass Valley's website, and as a part of a general list of Grass Valley customers for use and reference in Grass Valley corporate, promotional, and marketing materials. Customer agrees that Grass Valley may issue a press release identifying Customer as a Grass Valley customer and describing the nature of the Products, Services and/or Support Services to be provided. The content of any press release using Customer's name will be subject to Customer's prior approval, which will not be unreasonably withheld.

## 23 INTEGRATION

If Services and/or Support Services are purchased by Customer under a Proposal/Contract, the applicable Statement of Work, description of Covered Equipment, or other written agreement signed by authorized representatives of both parties and identifying the Proposal/Contract number, if any, shall be incorporated in and made addenda to these Terms and Conditions. These Terms and Conditions are the complete and exclusive statement of the mutual understanding between Grass Valley and Customer and supersedes all previous written and oral agreements and communications relating to the subject matter hereof.

## 24 INJUNCTIVE RELIEF

Each party acknowledges and agrees: (A) the restrictions set forth in the provisions of this Agreement dealing with Confidentiality and protection of intellectual property rights, if any, are reasonable in the circumstances and all defenses to the strict enforcement thereof by the injured party are hereby waived; (B) a violation of any of the provisions of this Agreement dealing with Confidentiality or protection of intellectual property rights will result in immediate and irreparable harm and damage to the disclosing party or licensor; and (C) in the event of any violation of any of the provisions of this Agreement dealing with Confidentiality and protection of intellectual property rights, the injured party will, in addition to any other right to relief hereunder, be entitled to equitable relief by way of temporary or permanent injunction and to such other relief as any court of competent jurisdiction may deem just and proper.

## 25 NATURE OF THE RELATIONSHIP

No agency, partnership, joint venture, or other business organization is created by this Agreement. Neither party will have the right or authority to make commitments of any kind for, or on behalf of, the other party without prior written consent of the party to be bound. Customer and Grass Valley shall be independent contractors and each will conduct its business at its own cost and expense. Nothing in this Agreement will be construed as a commitment by Grass Valley to engage in any further business with Customer beyond the scope of this Agreement (except as otherwise agreed to by the parties by means of a separate agreement) or after the expiration or earlier termination of this Agreement. Grass Valley may refer to Customer as a customer reference in business dealings with potential customers, Grass Valley financing matters and in press releases.

## 25 INTERPRETATION

In this Agreement, (A) the insertion of headings is for convenience of reference only and will not affect the construction or interpretation of this Agreement; (B) words or abbreviations that have well known or trade meanings are used herein in accordance with their recognized meanings; and (C) terms and conditions hereof are the result of negotiations between the parties and this Agreement will not be construed in favor of or against any party by reason only that a party or its professional advisors participated in the preparation of this Agreement.

## 26 COUNTERPARTS AND FACSIMILE SIGNATURE

This Agreement may be executed in counterparts, all of which when executed and delivered, will constitute one single agreement between the parties. This Agreement may be executed by facsimile or e-mailed PDF.

## 27 ELECTRONIC COMMUNICATIONS

The parties may do business electronically, including order placement and acceptance. Once accepted, such orders will create fully enforceable obligations subject to this Agreement. Such orders and acceptances will be deemed for all purposes to be an original signed writing. Parties will adopt commercially reasonable security measures for password and access protection.

## 28 DATA PROTECTION

Customer warrants that it will duly observe all of its obligations under any applicable data protection regulation that may apply to the relationship contemplated under the Agreement and in particular the EU-US Privacy Shield program governing the transfer of personally identifiable information from the EU to the United States ("Privacy Shield") and shall indemnify Grass Valley against all third-party claims that may be filed against Grass Valley because of a violation of Privacy Shield and/or other laws concerning the protection of personal data that cannot be imputed to Grass Valley.