

SONIC FOUNDRY, INC.
MEDIASITE RECORDER AND EDITOR SOFTWARE LICENSE TERMS & CONDITIONS

1. License Grant

(a) License. Subject to the provisions of this End-User License Agreement (the "Agreement"), Sonic Foundry, Inc. ("Sonic Foundry") hereby grants to Customer a non-transferable, non-assignable, non-exclusive and limited revocable license to use the software and user documentation covered by this Agreement (the "Software"), at the location (the "Installation Address") as set forth in writing between the parties or between Customer and Sonic Foundry's authorized reseller. Customer may use the Software only on the Hardware (as defined in section 2).

(b) Duration. The duration of the license granted to Customer herein shall be perpetual unless this Agreement is terminated as set forth below, in which case: (i) all amounts due from Customer to Sonic Foundry hereunder will immediately become due and payable; (ii) Customer shall cease using the Software and immediately return all the Software (including any backups) and all user documentation to Sonic Foundry; and (iii) Customer shall immediately erase all remnants of the Software in Customer's computers and any other equipment or hardware.

(c) Restrictions. Customer shall not use the Software: (i) at any location other than the Installation Address; (ii) under any name other than that of Customer; (iii) to process the data of third parties without Sonic Foundry's prior written consent; or (iv) in the operation of a "service bureau" whereby Customer uses the Software in conjunction with its own to provide services of any nature to one or more third parties. Additionally, Customer shall not: (v) modify, translate or change the Software in any manner; (vi) decompile, disassemble or otherwise reverse-engineer the Software; or (vii) remove or modify any copyright, patent, trademark or other legal and/or proprietary notices or legends affixed to or embedded in or associated with the Software. Customer shall use the Software in compliance with all applicable laws and regulations. Any separate components or other portions of the Software may only be used in conjunction with, and as a part of, the Software on an integrated basis.

2. Deliverables. With the purchase of any Mediasite Recorder ("Hardware"), Sonic Foundry (or one of its authorized resellers) shall provide Customer with one (1) copy of the Recorder software and one (1) copy of the Editor software pre-installed and one (1) copy of the user documentation. Sonic Foundry shall provide customer with one (1) additional copy of the Editor software which can be used independent of the Hardware. For an additional license fee in an amount determined by Sonic Foundry, additional copies of the Editor may be purchased. Customer shall not make any additional copies of the user documentation or the Software except to make one (1) archival copy for back up purposes only. Sonic Foundry has no obligation or duty whatsoever to update or revise the Software or to create new versions thereof, but Sonic Foundry reserves the right to do so at any time in its sole discretion. Customer may not provide the Software to any third party to be installed on that party's hardware or for their use otherwise.

3. Maintenance & License Fee. Sonic Foundry or Sonic Foundry's authorized Reseller provides maintenance and support exclusively in conjunction with the purchase by Customer of a Customer Care Service Agreement. Sonic Foundry or its authorized Reseller shall maintain the Software and provide e-mail and telephone support to Customer's employees solely pursuant to the terms of any such agreement between Customer and Sonic Foundry or between Customer and Sonic Foundry's authorized reseller. Without a Customer Care Service Agreement, Customer may call Sonic Foundry's technical support number on a pay-per-call or pay-per-incident basis as may be provided from time to time

Customer shall pay the license fee (the "License Fee") as set forth in writing between the parties directly to Sonic Foundry or to its authorized Reseller, and all such payments shall be made in US dollars only. Any and all fees or other charges due to Sonic Foundry that are not paid by Customer when due shall bear a late payment charge (until paid) at the rate of: (i) one percent (1.0%) per month; or (ii) if lesser, the maximum amount permitted by applicable law. Customer shall be responsible for any and all taxes, duties and other such charges assessed against the Software and Recorder Hardware with respect to purchase, delivery and use thereof or the provision of maintenance services in relation thereto.

4. Confidentiality; Intellectual Property. Customer agrees that Customer and its agents, consultants and/or employees (collectively, "Customer's Staff") shall not in any manner use, disclose or otherwise communicate any information about the Software that could enable copying, deriving source code or unauthorized use of all or any portion of the Software. Customer agrees to take all necessary action to protect the confidential and proprietary information contained in or provided with the Software, including without limitation, the issuance of appropriate instruction to Customer's employees/representatives and the execution of binding agreements with Customer's employees/representatives. In the event that Customer becomes aware that the Software is being used by its employees/representatives in a manner not

authorized by this Agreement, Customer shall immediately notify Sonic Foundry in writing of such facts and Customer shall immediately use all reasonable efforts to cause such unauthorized use to cease, and to recover copies of the Software that were made in violation of this Agreement. Customer agrees that the Software (including any modifications, updates and revisions) and all copyrights, patents, trade secrets, Marks (as defined below) and other proprietary rights or matter related thereto are and shall remain the sole, exclusive and perpetual property of Sonic Foundry.

5. Trademarks & Trade Names.

(a) No rights are granted hereunder to Customer to use the trademarks, trade names, service names or logos (collectively, "Marks") of Sonic Foundry or those of third parties that may be used in connection with the Software and Recorder Hardware. Customer shall not alter or remove any Marks applied to, embedded in or associated with the Software and Recorder Hardware or any other materials provided by Sonic Foundry to Customer.

(b) Customer hereby acknowledges Sonic Foundry's ownership of and title to the Marks and the goodwill attaching thereto, and agrees that any goodwill resulting from Customer's display of the Marks shall vest in and become the sole, perpetual and exclusive property of Sonic Foundry. Customer agrees not to contest or take any action to contest the Marks or to use, employ or attempt to register any Mark that is confusingly or deceptively similar to Sonic Foundry's Marks.

6. Warranties & Disclaimers. Sonic Foundry warrants that: (a) it has the right to license the Software to Customer hereunder; (b) Customer's use of the Software in accordance with this Agreement will not infringe upon a United States patent or copyright respecting the Software; and (c) for a period of ninety (90) days from the date Sonic Foundry ships the Software to its reseller or the Customer (depending from whom the Customer directly received the Software), the Software, if used by Customer in accordance with the Software's user documentation and this Agreement, will substantially perform the functions as set forth in such user documentation.

This warranty does not cover damage due to external causes, including accident, abuse, misuse, variations or problems with electrical power, natural disasters, servicing not authorized by Sonic Foundry, usage not in accordance with product literature, failure to perform required preventative maintenance, problems caused by third-party software, or problems resulting from hardware parts or components not supplied by Sonic Foundry. Customer assumes responsibility for all additional technical support and support services (contact your Sonic Foundry authorized reseller for service contract information and terms).

SONIC FOUNDRY MAKES NO EXPRESS OR IMPLIED WARRANTIES WHATSOEVER WITH RESPECT TO THE SOFTWARE OR ANY OTHER MATTER PROVIDED TO CUSTOMER UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF FITNESS, MERCHANTABILITY, ANY WARRANTIES OF NON INFRINGEMENT, OR ANY IMPLIED WARRANTIES ARISING OUT OF A COURSE OF PERFORMANCE, DEALING OR TRADE USAGE) EXCEPT AS MAY BE EXPRESSLY AND SPECIFICALLY SET FORTH HEREIN.

SONIC FOUNDRY NEITHER MAKES NOR ASSUMES ANY REPRESENTATION OR WARRANTY OF ANY NATURE THAT THE OPERATION OF THE SOFTWARE OR ANY COMPONENT OR PORTION THEREOF WILL BE SUITABLE FOR A PARTICULAR APPLICATION OR WILL BE ON-GOING, UNINTERRUPTED, COMPLETELY SECURE OR FREE OF ERRORS OR BUGS. FURTHER, SONIC FOUNDRY SHALL NOT HAVE ANY LIABILITY FOR THE CONSEQUENCES OF ANY INTERRUPTIONS TO, OR ERRORS OR BUGS IN, THE SOFTWARE OTHER THAN AS EXPRESSLY AND SPECIFICALLY SET FORTH IN THIS AGREEMENT.

CUSTOMER ACKNOWLEDGES AND AGREES THAT: (a) IT HAS READ THIS AGREEMENT AND BOTH UNDERSTANDS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN; (b) SONIC FOUNDRY MAY ENTER INTO SIMILAR ARRANGEMENTS WITH THIRD PARTIES ON TERMS THAT DIFFER FROM THOSE HEREIN OR PROVIDE IDENTICAL OR SIMILAR SERVICES TO OTHER COMPANIES THAT MAY BE SIMILAR TO OR COMPETITIVE WITH CUSTOMER; AND (c) IT HAS INDEPENDENTLY AND THOROUGHLY EVALUATED THE DESIRABILITY OF ACCEPTING THIS AGREEMENT AND IS NOT RELYING IN ANY MANNER UPON ANY REPRESENTATION, WARRANTY, GUARANTEE OR STATEMENT OF ANY NATURE OTHER THAN AS EXPRESSLY AND SPECIFICALLY SET FORTH HEREIN.

7. Intellectual Property Claims

(a) Notwithstanding anything to the contrary contained herein, Sonic Foundry expressly disclaims any warranty and assumes no liability for any patent, copyright, trademark, trade secret or other intellectual property infringement claim against the Software if the claim applies to: (i) use of the Software in conjunction with other software or another product; (ii) any Mark or other branding materials not applied by Sonic Foundry, or applied per Customer's request; (iii) any modification to the Software unless such modification was made solely by Sonic Foundry or its authorized designee; or (iv) use of the Software in violation of the terms of this Agreement or the user documentation.

(b) Customer shall promptly notify Sonic Foundry in writing upon its discovery of any unauthorized use or infringement of the Software or the infringement of Sonic Foundry's patents, copyrights, trade secrets, Marks or other intellectual property rights with respect thereto. Sonic Foundry shall have the exclusive right to bring an infringement action or other proceeding against a third party in such circumstance, and, if Sonic Foundry brings such an action or proceeding, Customer shall cooperate with (and provide full information and reasonable assistance to) Sonic Foundry in connection with any such action or proceeding.

8. Limitation Of Damages

(a) *Sonic Foundry's aggregate liability to Customer for any and all claims of any nature arising from or related to this Agreement shall be limited to the amount of the License Fee and any support fees actually paid by Customer to Sonic Foundry under this Agreement during the Term and with respect to the Software.*

(b) *In no event whatsoever shall Sonic Foundry be liable to Customer (whether under breach of contract, product liability, negligence or otherwise) for: (i) any direct, indirect, incidental, special, punitive or consequential damages; (ii) any damages for loss of profits, loss of earnings or loss of business opportunities, even if Sonic Foundry has been advised or warned by Customer of the possibility of such damages; or (iii) costs of procurement or substitute goods or services*

9. Default & Termination

(a) **Termination Upon Notice.** Sonic Foundry may immediately terminate this Agreement upon notice to Customer if:

(i) A receiver, liquidator, trustee, or similar administrator is appointed to take charge of all or substantially all of Customer's assets;

(ii) Customer is adjudged or becomes bankrupt or insolvent, is unable to pay its debts as they become due, or makes an assignment for the benefit of its creditors;

(iii) Any judicial proceedings are commenced by or on behalf of Customer pursuant to any bankruptcy, insolvency or debtor relief law;

(iv) Customer voluntarily or involuntarily undertakes to dissolve or wind up its affairs;

(v) Customer makes any false or misleading representations in connection with the business relationship between Customer and Sonic Foundry, or engages in fraud, criminal or negligent conduct in connection therewith.

(vi) Any competitor of Sonic Foundry purchases or otherwise acquires an interest of any sort or size in Customer;

(vii) Customer materially breaches any provision of this Agreement (except for a breach described in subsection (vi) below) and such failure is not cured within fifteen (15) days after Customer's receipt of notice from Sonic Foundry regarding such breach;

(viii) Customer fails to make payment to Sonic Foundry or its reseller of any fees or other amounts when due, and such failure exists for three (3) business days after Customer's receipt of notice from Sonic Foundry regarding such non-payment by Customer;

(ix) Customer registers (or attempts to register) or uses (or permits third parties to use) the name of "Sonic Foundry" or any of Sonic Foundry's Marks respecting a commercial product or service, or corporate title or business name, without the prior written consent of Sonic Foundry;

(b) **Automatic Termination Without Notice:** This Agreement shall terminate automatically without prior notice if: (i) Customer represents in any manner that the rights granted to it hereunder are exclusive; or (ii) this Agreement is deemed by operation of law to be an exclusive license for the Software.

10. General Legal Provisions

(a) Assignability. This Agreement and any rights or obligations hereunder shall not be assigned by Customer without the prior written approval of Sonic Foundry, which approval may be withheld or conditioned by Sonic Foundry in its sole and absolute discretion. Any change in control of Customer shall be deemed an assignment hereunder, whereby Sonic Foundry, at its option may: (i) immediately terminate this Agreement upon written notice to Customer; or (ii) approve assignment of this Agreement to the third party entity taking control of Customer upon written notice to Customer. This Agreement is binding upon each party's permitted successors and assigns, and any attempted assignment, novation or delegation of this Agreement (or any portion thereof) by Customer in violation of this Agreement shall be null and void.

(b) Time Frame for Claims. No action or claim relating to this Agreement or the Software shall be made against Sonic Foundry by Customer or on Customer's behalf more than one (1) year after the event giving rise to such action or claim.

(c) Entire Agreement. This Agreement, together with any Exhibits hereto, is the complete and sole agreement of the parties, and supersedes all other communications, oral or written, between the parties relating to the subject matter hereof.

(d) Amendment. Any modification, change or revision to this Agreement shall not be valid unless it is in writing and signed by both parties.

(e) Controlling Law.

(i) The laws of the State of Wisconsin (without effect to its conflict of laws provisions) shall control.

(ii) Customer agrees and hereby consents to personal jurisdiction in Dane County, Wisconsin for all disputes arising under, or related to, this Agreement or the Software and that Dane County, Wisconsin shall be the exclusive forum for resolving any and all such disputes.

(iii) If any provision or portion of this Agreement is determined to be wholly or partially invalid, unenforceable or void for any reason, such determination shall affect only that particular provision or portion thereof, and shall not affect the remainder of such provision or any other provision of this Agreement. In such case, the parties agree to allow an arbitrator to replace the affected provision with a valid provision that effectuates the original intent of the parties respecting the affected provision.

(f) Waiver. No course of dealing on the part of any party, nor any failure or delay by any party with respect to exercising any of its respective rights hereunder, shall operate as a waiver thereof. A waiver by any party of any condition or breach hereof (whether by conduct or otherwise) in any one or more instances shall not be deemed a further or continuing waiver in such instance or for any other purpose.

(g) Force Majeure If the performance of this Agreement or any obligation under it (except payment of monies due) is prevented by reason of acts of God, acts of government, strike, civil strife or any other cause not within the reasonable control of either party (a "Force Majeure Event"), the party so affected shall be excused from such performance, but only for so long as and to the extent that such a Force Majeure Event prevents that party's performance. Notwithstanding the foregoing, the party not affected by a Force Majeure Event may terminate this Agreement immediately upon written notice if the Force Majeure Event continues for more than thirty (30) consecutive days or an aggregate of sixty (60) days whether consecutive or not.

(h) Headings. The headings of the Sections to this Agreement are for convenience only and shall not be construed as to provide substantive effect to the interpretation of this Agreement.

(i) Notices. Unless otherwise expressly stated herein with respect to a particular circumstance, all notices tendered hereunder shall be in writing and deemed to have been given when delivered: (i) personally via a reputable courier service with written confirmation of receipt; or (ii) via registered or certified mail, postage prepaid, with written confirmation of receipt. Notices shall be sent to a party's respective address as first set forth above unless notice of a different address is sent per this provision.