riverbed

RIVERBED PROFESSIONAL SERVICES EXHIBIT

This Exhibit sets forth terms related to Professional Services and is incorporated as part of the General Terms (attached hereto and located at www.riverbed.com/license). Other Exhibits do not apply to the offerings ordered under this Exhibit unless expressly referenced as being applicable. Capitalized terms used but not defined in this Exhibit have the meaning assigned to them in the General Terms.

1. **ADDITIONAL DEFINITIONS**

1.1. "**Customer Materials**" means any information, specifications, instructions, or materials provided by Customer in connection with the Professional Services.

1.2. "**Deliverables**" means any reports, analyses, scripts, templates, code, or other work results delivered by Riverbed as specified in the applicable Professional Services Package and/or SOW.

1.3. RESERVED

1.4. "**Intellectual Property Rights**" means all worldwide intellectual property rights, including copyrights, trademarks, service marks, trade secrets, know-how, inventions, patents, patent applications, moral rights, and all other proprietary rights, whether registered or unregistered.

1.5. "**Professional Services Package**" means a predefined FP Services package purchased by Customer as described in the following applicable Service Documentation: (a) a Riverbed brochure published at www.riverbed.com/services/consulting-services-catalog; or (b) a written service description document provided by Riverbed to Customer.

1.6. "**Service Documentation**" means a Riverbed-written document that describes a Professional Service offering and provides an overview of the key benefits, service tasks, and any Deliverables included in such Professional Service offering, including brochures on Riverbed's website, service description documents, and proposals provided by Riverbed to Customer.

1.7. "**SOW**" means a mutually agreed upon written statement of work between Riverbed and Customer that describes Professional Services to be rendered by Riverbed to Customer.

2. **PROFESSIONAL SERVICES**. Professional Services include Professional Services billed at a fixed price ("**FP Services**"), Professional Services billed on a time and materials basis ("**T&M Services**"), and GCS Credits. Professional Services may be described in Service Documentation and/or a SOW.

2.1. **Performance**. Riverbed will provide Professional Services in accordance with the Agreement, the applicable Service Documentation, Professional Services Package, and/or SOW, and the applicable Order. If Professional Services are performed at Customer's facilities, Riverbed will ensure Riverbed personnel comply with Customer's reasonable policies that apply to onsite service providers, provided that such policies are provided to and agreed to by Riverbed in writing in advance. Riverbed may subcontract its obligations under the Agreement, provided that Riverbed will remain responsible for its obligations under the Agreement.

2.2. **Customer Responsibilities**. Customer will perform all obligations and satisfy all requirements identified as a Customer obligation or requirement in any Order, Service Documentation, Professional Services Package, or SOW. Without limiting the foregoing, Customer will cooperate reasonably and in good faith with Riverbed personnel in their provision of the Professional Services, including: (a) providing Riverbed personnel sufficient resources, knowledgeable Customer staff, access to equipment and all supporting infrastructure, including network connectivity and power supply requirements (if applicable); (b) making Customer Materials available in a timely manner; (c) responding to inquiries from Riverbed personnel in a timely and complete manner; and (d) participating in scheduled project meetings with Riverbed personnel. Customer will be responsible for, and assumes the risk of any problems resulting from, the content, accuracy, completeness and consistency of any Customer Materials. If Customer fails to perform any Customer obligations or satisfy any Customer requirements, Riverbed is not obligated to perform any Professional Services that are affected by such failure and will not be responsible for any delays resulting therefrom.

3. **PROCESS**

3.1. **Delivery and Scheduling**. Riverbed is not obligated to deliver any Professional Services under any Service Documentation, Professional Services Package, or SOW unless Riverbed has received and accepted an Order for such Professional Services. Riverbed will use commercially reasonable efforts to schedule Professional Services as promptly as practicable; however, Riverbed requires a minimum of ten business days after Riverbed's acceptance of an Order to prepare and plan for Professional Services to begin. Customer will schedule all remote work in one day minimum blocks of time. If Customer purchases five or more days of T&M Services in an Order, Customer will schedule such T&M Services in minimum increments of five consecutive days unless otherwise approved in advance by Riverbed. If Professional Services will be performed onsite at a location designated by Customer, such onsite visits must include fixed or budgeted travel and expenses as part of the Order, and Customer will schedule each day of onsite Professional Services in consecutive days, and in minimum increments of five consecutive days if five or more days are purchased, unless otherwise approved in advance by Riverbed. Unless otherwise expressly provided in the applicable Service Documentation or SOW, as used with respect to Professional Services, a "**day**" is defined as eight hours during the regular business hours 7:00 AM to 7:00 PM local time, Monday through Friday, of a single day (excluding local holidays).

3.2. **Rescheduling**. Customer is not permitted to reschedule any Professional Services without Riverbed's prior consent except as otherwise expressly set forth in this Section. If Customer requests to reschedule delivery of any Professional Services (excluding any training services and/or any Professional Services that have been redeemed from GCS Credits), Riverbed may accept or reject the rescheduling request in its discretion, provided that if such request is received within three business days prior to a confirmed delivery date, Riverbed may invoice Customer in full for any such rescheduled Professional Services. For Professional Services that have been redeemed from GCS Credits, if Customer requests to reschedule delivery of the Professional Services, Riverbed will use commercially reasonable efforts to accommodate the rescheduling request (subject to Riverbed's availability), provided further that

for any onsite Professional Services that included travel expenses, an additional purchase of travel expenses may be required to accommodate any necessary changes to travel plans. Failure to purchase any additional required travel expenses will result in remote delivery of such Professional Services unless otherwise approved by Riverbed in writing. Any rescheduling of any Professional Services redeemed from any GCS Credits for any reason will not extend the expiration date of the applicable GCS Credits unless otherwise agreed by Riverbed in writing. Training services (excluding those redeemed from GCS Credits) may not be cancelled or rescheduled by Customer except as otherwise expressly set forth in the Riverbed cancellation policy in accordance with GSA Schedule terms and conditions applicable to such training that is communicated to Customer at the time of training registration and/or as otherwise agreed in writing by Riverbed.

3.3. **Completion**. Professional Services will be deemed completed by Riverbed upon the sooner of (a) mutual agreement by the parties; (b) for T&M Services, once each applicable hour or day has been delivered; or (c) for FP Services, upon delivery of the FP Services or each applicable phase or milestone identified in the applicable Professional Services Package or SOW.. Regardless of how such Professional Services are billed, if requested by Riverbed, Customer will confirm the completion of all Professional Services to Riverbed in writing within two business days after any such completion.

4. **PAYMENT**. Customer will pay Riverbed or its authorized reseller as applicable for the Professional Services in accordance with the rates set forth in the accepted Order and/or SOW, as applicable. Notwithstanding the foregoing, to the extent that any T&M Services outside the definition of a "day" are delivered, then to the extent consistent with Federal law, Customer will pay for such T&M Services at a rate of time and a half (1.5X), unless otherwise approved in advance by Riverbed. Riverbed may invoice Customer for Professional Services (including any applicable pre-approved expenses in accordance with FAR 31.205-46 and the Federal Travel Regulation (FTR)) the earlier of: (a) upon written request by Customer; (b) upon Riverbed's delivery of T&M Services; (c) except for Professional Services Packages, upon Riverbed's completion of phases or milestones for FP Services in accordance with the amounts attributable to such phases or milestones as set forth in the applicable SOW, or, if no phases or milestones, in accordance with the schedule set forth in the applicable SOW; (d) upon the Professional Services being deemed completed …... Riverbed is not obligated to provide any receipts for any expenses that are less than or equal to fifty U.S. dollars. Any travel and hotel arrangements that are not included in a fixed fee are to be made by Riverbed and may be approved by Customer if such approval is requested by Customer prior to the arrangements being booked, provided that such approval is not unreasonably withheld or delayed. Orders or SOWs received without travel and expenses line items will be delivered remotely unless otherwise approved by Riverbed in writing. All fees applicable to Professional Services and/or PS Usage Products are non-refundable.

5. **OWNERSHIP AND LICENSES**

5.1. **Customer Materials**. As between the parties, Customer owns all right, title, and interest in and to the Customer Materials. Customer grants Riverbed the right and license to use the Customer Materials solely as necessary to provide the Professional Services.

5.2. **Deliverables**. Customer acknowledges and agrees that the Professional Services that Riverbed performs and the Deliverables that Riverbed provides in connection with the Professional Services are generally applicable to Riverbed's business. From time to time, Riverbed may develop custom Deliverables exclusively for Customer with respect to which the parties agree Customer is to be the owner, as explicitly agreed in a SOW executed by Customer and Riverbed (such Deliverables, "**Customer Owned Work Product**").

5.3. **Riverbed Ownership**. Subject to Customer's ownership rights in Customer Materials and Customer Owned Work Product, Riverbed owns all rights, title, and interest in and to all Deliverables and Riverbed Materials. "**Riverbed Materials**" means: (a) materials developed or obtained by or for Riverbed independently of any Professional Services; (b) byproducts or derivatives of Deliverables that by themselves provide generic technical information not unique to Customer's business and do not contain Confidential Information of Customer; and (c) scripts, codes or templates Riverbed develops while performing any Professional Services. For those Deliverables that are not Customer Owned Work Product, Riverbed grants Customer a non-exclusive, non-transferable, non-sublicensable right and license to use (x) the Riverbed Materials solely as necessary to use the Deliverables; and (y) the Deliverables solely with the underlying Offerings.

6. **MISCELLANEOUS**

6.1. **Acknowledgement**. Customer acknowledges and agrees that (a) Customer's purchase of any other Offerings (including any Support Services plans) is covered under separate terms (i.e., one or more Exhibits); (b) any rights or licenses granted in this Exhibit do not apply to Offerings made available subject to separate terms; and (c) no purchase of any Offerings or other services is contingent upon the provision of any Professional Services hereunder.

6.2. **PS Usage Products**. From time to time, Riverbed may install at Customer's facilities and/or provide access to a Solution solely for temporary use by Riverbed or Customer, as applicable, in connection with Riverbed's performance of a Professional Services engagement for Customer (each, a "**PS Usage Product**"). If Riverbed provides any PS Usage Product(s), then the additional terms of this Section will apply. The specific models, quantities, pricing, length of usage term, and any other terms applicable to PS Usage Products may be identified in a quote issued to Customer by Riverbed, the Service Documentation, Professional Services Package, or SOW, as applicable. Customer will use PS Usage Product(s) only in connection with receipt of the applicable Professional Services and in accordance with the terms and conditions of the Agreement and, if applicable, the SOW. Unless otherwise expressly agreed in a SOW or in a written agreement signed by Riverbed, Riverbed is not obligated to provide Support Services for any PS Usage Product. For clarity, subject to the foregoing terms and conditions, PS Usage Products are Offerings, not Deliverables, for purposes of the Agreement.