



AUTHORIZED CHANNEL PARTNER PROFESSIONAL SERVICES TERMS & CONDITIONS

These Authorized Channel Partner Professional Services Terms & Conditions (“**PS Terms**”) set forth the terms and conditions that govern the Professional Services (as defined below) that are made available by Riverbed Technology LLC and/or any of its Affiliates, as applicable (“**Riverbed**”). These PS Terms supplement the terms of your applicable distributor, reseller, service provider, systems integrator, or other channel partner agreement (“**Agreement**”). Any references to “**Partner**” below mean the applicable channel partner that has entered into the Agreement with Riverbed and is placing an order for Professional Services.

1. Definitions.

- (a) “**Affiliate**” means an entity that controls, is controlled by, or is under common control with Riverbed Technology LLC.
- (b) “**Deliverables**” means all Intellectual Property, whether in tangible or electronic format, that is expressly identified as a deliverable in a SOW or Service Documentation and/or that is provided to Partner or an End User by Riverbed in the course of providing the Professional Services to the End User, including any analyses, reports, manuals, supporting materials, test results, recommendations and drawings. Deliverables do not include any Products and/or any Partner IP. All Deliverables will be provided in the English language unless otherwise agreed in writing by Riverbed.
- (c) “**End User**” means either: (i) a customer that is identified by Partner and/or the Riverbed authorized distributor at the time of sale of the applicable Professional Services and that will use such Professional Services for its internal business use, or (ii) if Partner purchases the Professional Services for its own internal business use, Partner will be deemed the End User. An End User shall not resell or redistribute any of such Professional Services.
- (d) “**FP Services**” means any Professional Services that are billed at a fixed price. FP Services may include (i) predefined, packaged Professional Services offerings that are described in Service Documentation and/or (ii) Professional Services that are not part of a predefined offering and are described in a SOW.
- (e) “**GCS Credits**” means any global customer success credits that are listed on Riverbed’s or one of its Affiliate’s then-current price list. GCS Credits may only be redeemed for certain Professional Services; information regarding eligible Professional Services and the amount of GCS Credits required for a Professional Service offering is available at www.riverbed.com/gcs-credits.
- (f) “**Intellectual Property**” means any and all inventions (whether or not patentable), discoveries, materials, tools, software (both source and object code), works of authorship (whether or not copyrightable), know-how, technical information, data, trade secrets, work product, methods, processes, ideas, designs, schematics, and other forms of technology.
- (g) “**Intellectual Property Rights**” means any and all now known or hereafter existing (i) rights associated with works of authorship, including copyrights and moral rights, (ii) trademarks, trade names, service marks, service names, and other indicia of origin, (iii) trade secret rights, (iv) patents, patent rights, and industrial property rights, (v) other similar proprietary rights in Intellectual Property of every kind and nature, and (vi) all registrations, applications, renewals, extensions, continuations, continuations-in-part, divisionals, foreign counterparts, reexaminations, and reissues of any of the foregoing, in each case in any jurisdiction throughout the world.
- (h) “**Partner IP**” means (i) all Intellectual Property and Intellectual Property Rights that are in existence and owned by Partner as of the effective date of the Agreement, and (ii) any Intellectual Property or Intellectual Property Right that is supplied or independently developed solely by Partner without the use and/or benefit of, and that does not relate to or arise out of, any of Riverbed’s Intellectual Property, Intellectual Property Rights, Confidential Information, or Products.
- (i) “**Professional Services**” means the training, consulting, installation and other professional services that are listed on Riverbed’s or one of its Affiliate’s then-current price list. Professional Services may be described in Service Documentation and/or a SOW. Professional Services include FP Services, T&M Services, and GCS Credits.
- (j) “**Riverbed IP**” means all (i) Intellectual Property resulting from any Professional Services or otherwise conceived, reduced to practice, created, or developed during performance under these PS Terms, the Agreement, and/or any SOW, (ii) derivatives, enhancements and/or modifications of any of Riverbed’s Products or Services, (iii) Intellectual Property supplied, conceived, reduced to practice, created or developed by or on behalf of Riverbed, (iv) Deliverables, and (v) all Intellectual Property Rights in or to any of the foregoing. Riverbed IP does not include any Partner IP.
- (k) “**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 available on the Riverbed website at http://www.riverbed.com/us/products/professional_services/, and any service description documents and proposals provided by Riverbed to Partner or the applicable End User.
- (l) “**SOW**” means a mutually agreed upon written statement of work between Riverbed and Partner or between Riverbed and the applicable End User that describes Professional Services to be rendered by Riverbed to the End User.
- (m) “**T&M Services**” means Professional Services that are billed on a time and materials basis.

2. Services.

(a) Partner may purchase Professional Services either for resale to End Users or for Partner’s internal business use. If Partner is reselling the Professional Services to an End User, Partner shall resell such Professional Services subject to the applicable End User professional services terms available at www.riverbed.com/serviceterms (“**Customer PS Terms**”). Partner shall not resell any Professional Services to any End User under terms that are less protective of Riverbed, its licensors, its suppliers, and/or the Professional Services than the terms in the Customer PS Terms. If Partner is purchasing Professional Services for its own internal business use, the terms and conditions of these PS Terms will apply to Partner’s receipt of such Professional Services.

(b) Subject to Partner’s compliance with all the terms of the Agreement (including these PS Terms) and payment of the applicable fees, Riverbed will use commercially reasonable efforts to provide the Professional Services to the applicable End User as set forth

in the applicable order, Service Documentation, or SOW. For clarity, Riverbed is not obligated to deliver any Professional Services under any Service Documentation or SOW unless Riverbed has received and accepted an order for such Professional Services. If the Professional Services are provided at Partner's facilities, Riverbed shall comply with Partner'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. Without limiting the foregoing, Partner acknowledges and agrees that Partner's purchase of Products (including any Support plans) is not contingent upon the provision of any Professional Services hereunder. Riverbed may subcontract its obligations set forth herein, provided that Riverbed shall remain responsible for its obligations under these PS Terms.

3. **Delivery and Completion.**

(a) Professional Services will be deemed completed by Riverbed upon the sooner of (i) mutual agreement by the parties, (ii) for T&M Services, once each applicable hour or day has been delivered, or (iii) for FP Services, upon delivery of the FP Services or each applicable phase or milestone identified in the applicable Service Documentation and/or SOW. Notwithstanding the foregoing, if Riverbed has partially completed a FP Service and Riverbed is not able to complete the FP Service due to the applicable End User's failure to schedule completion of the FP Services within the later of (A) ninety (90) days after Partner purchased the FP Service or (B) thirty (30) days after the originally agreed upon completion date for the FP Service, such FP Services will be deemed delivered and completed on such later date. Riverbed will use commercially reasonable efforts to schedule Professional Services as promptly as practicable; however, Riverbed requires a minimum of ten (10) business days after Riverbed's acceptance of an order to prepare and plan for Professional Services to begin. If Professional Services will be performed onsite at a location designated by Partner or an End User, such onsite visits must include fixed or budgeted travel and expenses as part of the order. Unless otherwise expressly provided in the applicable Service Documentation or a SOW, as used with respect to Professional Services, a "day" is defined as eight (8) 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). Partner is not permitted to cancel or reschedule any Professional Services without Riverbed's prior consent except as otherwise expressly set forth in these PS Terms. GCS Credits that are not consumed within twelve (12) months after the applicable order date will expire unless otherwise agreed by Riverbed in writing. Without limiting the foregoing, Professional Services (excluding any Professional Services that have been redeemed from GCS Credits) that are not completed within six (6) months after the applicable order date will be deemed completed unless otherwise agreed by Riverbed in writing. Regardless of how such Professional Services are billed, if requested by Riverbed, Partner shall confirm the completion of all Professional Services to Riverbed in writing within two (2) business days after any such completion. If Partner fails to provide written notice to Riverbed of Riverbed's failure to complete any Professional Services within five (5) business days after such Professional Services are deemed completed in accordance with this Section, Partner waives any right to claim that Riverbed did not complete the Professional Services.

(b) The terms in this Section 3(b) apply only where Partner is the End User receiving Professional Services and not to the resale of Professional Services.

(i) Partner shall schedule all remote work in one (1) day minimum blocks of time. If Partner purchases five (5) or more days of T&M Services in an order, Partner shall schedule such T&M Services in minimum increments of five (5) consecutive days unless otherwise approved in advance by Riverbed. If Professional Services will be performed onsite at a location designated by Partner, Partner shall schedule each day of onsite Professional Services in consecutive days, and in minimum increments of five (5) consecutive days if five (5) or more days are purchased, unless otherwise approved in advance by Riverbed.

(ii) For Professional Services that have been redeemed from GCS Credits, if Partner requests to cancel or requests to reschedule delivery of the Professional Services, Riverbed will use commercially reasonable efforts to accommodate the rescheduling or cancellation 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. GCS Credits will be deemed consumed once the applicable Professional Services for which they have been redeemed have been completed (or deemed completed) in accordance with Section 3(a) or upon expiration of the GCS Credits, whichever occurs earlier. Notwithstanding the foregoing, any cancellation or 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.

(iii) Training services (excluding those redeemed from GCS Credits) may not be cancelled or rescheduled by Partner except as otherwise expressly set forth in the Riverbed cancellation policy applicable to such training that is communicated to Partner at the time of training registration and/or as otherwise agreed in writing by Riverbed.

4. **Purchase Terms.** The terms in this Section 4 apply only if Partner is purchasing Professional Services directly from Riverbed. Partner shall pay Riverbed 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 Partner shall 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 Partner for Professional Services (including any applicable expenses) the earlier of (i) upon written request by Partner, (ii) upon Riverbed's delivery of T&M Services, (iii) 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 Service Documentation or SOW, or, if no phases or milestones, in accordance with the schedule set forth in the applicable Service Documentation or SOW, (iv) upon the Professional Services being deemed completed in accordance with Section 3(a), (v) for training services, upon Riverbed's acceptance of the Order, and/or (vi) for GCS Credits, upon Riverbed's acceptance of the Order. Riverbed may invoice Partner for the total fees for the full usage term for any PS Usage Product (as defined below) upon acceptance of the applicable Order; no monthly billing is available unless otherwise agreed by Riverbed in writing. Partner shall not cancel any Orders for Professional Services, provided however that Riverbed may cancel an Order for Professional Services in whole or in part at any time. Travel and other expenses that are incurred in connection with the Professional Services may, at Riverbed's option, either be quoted by Riverbed and paid by Partner on a fixed fee basis, or upon submission of an invoice detailing actual expenses, reimbursed by Partner. Riverbed is not obligated to provide any receipts for any expenses that are less than or equal to fifty U.S. dollars (\$50). Any travel and hotel arrangements that are not included in a fixed fee are to be made by Riverbed, and may be approved by Partner if such approval is requested by Partner 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. If Riverbed receives a request to cancel or a request 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 or cancellation request in its discretion, provided that if such request is received within three (3) business days prior to a confirmed delivery date, Riverbed may invoice Partner in full for any such cancelled or rescheduled Professional Services. All fees applicable to Professional Services and/or PS Usage Products are nonrefundable.

5. **Partner Responsibilities.** Partner will perform all obligations and satisfy all requirements identified as a Partner obligation or

requirement in any order, Service Documentation, or SOW. Without limiting the foregoing, Partner shall (a) make available in a timely manner all technical data, facilities, programs, files, documentation, test data, sample output, or other information and resources reasonably required by Riverbed and (b) provide services and access to equipment and all supporting infrastructure, including network connectivity and power supply requirements, if applicable, that Riverbed may reasonably require for the performance of the Professional Services. Partner will be responsible for, and assumes the risk of any problems resulting from, the content, accuracy, completeness and consistency of all such data, materials and information supplied by Partner. If Partner fails to perform any Partner obligations or satisfy any Partner requirements, Riverbed is not obligated to perform any Professional Services that are affected by such failure.

6. License and Proprietary Rights.

(a) **Ownership.** As between the parties, Partner owns all right, title and interest in and to the Partner IP and Riverbed owns all right, title and interest in and to the Riverbed IP. To the extent, if any, that ownership of any of the Riverbed IP does not automatically vest in Riverbed, Partner hereby irrevocably and unconditionally (i) transfers and assigns to Riverbed all right, title and interest in and to the Riverbed IP without further consideration and (ii) waives all moral rights in or to all Riverbed IP. During and after the term of the Agreement, Partner shall execute all documents and provide all information and assistance as requested by Riverbed in order to effectuate the foregoing provision. Riverbed has the exclusive right to apply for or register any Intellectual Property Rights with respect to any Riverbed IP. Riverbed makes no assignment of any sort hereunder.

(b) Licenses.

(i) To the extent reasonably required to perform the Professional Services, Partner hereby grants to Riverbed a nonexclusive, royalty-free license, with the right to grant sublicenses, to use, make, modify, reproduce, prepare derivative works of, display, transmit, perform and otherwise exploit the Partner IP and all Intellectual Property Rights therein, in each case solely for the purposes of performing Professional Services for the applicable End User and solely for the applicable End User's benefit.

(ii) For any Deliverables provided to Partner in connection with the Professional Services or any SOW, Riverbed hereby grants to Partner a nonexclusive, nontransferable, royalty-free, nonsublicensable license to (A) use such Deliverables for Partner's internal business use, and (B) exercise any other rights (if any) expressly granted under any Service Documentation or SOW with respect to such Deliverables. Except as expressly permitted in an applicable SOW or other written agreement between Riverbed and Partner, Partner shall not, and shall not allow any End User or other third party to, (1) provide any Deliverable to any third party or use any Deliverable for the benefit of any third party, (2) modify, create derivative works of, reverse engineer, or copy any portion of the Deliverables, (3) incorporate or embody any Deliverables in any other Intellectual Property, or (4) without Riverbed's prior written consent, publish or provide to any third party results of any benchmark or comparison tests of any Deliverable. Unless expressly agreed in a SOW or otherwise in a written agreement signed by Riverbed, Riverbed is not obligated to provide support or maintenance services for any Deliverable. Riverbed does not grant Partner any rights not expressly set forth herein or in an applicable SOW.

(iii) If Riverbed provides a Product for installation at an End User's facilities solely for temporary use by Riverbed or the End User, as applicable, in connection with Riverbed's performance of a Professional Services engagement (each such Product, a "**PS Usage Product**"), the additional terms of this Section will apply. The specific Product models, quantities, pricing, length of usage term, and any other terms applicable to the PS Usage Products may be identified in a quote issued to Partner by Riverbed or by a Riverbed authorized distributor, in the Service Documentation, or in a SOW, as applicable. All PS Usage Products are subject to the terms and conditions of the EULA. As between Riverbed, Partner and the End User, Riverbed retains ownership of all PS Usage Products. Partner shall ensure that each End User that receives a PS Usage Product shall not, and shall not authorize or permit any other person or entity to, directly or indirectly: (a) use any PS Usage Product except in connection with receipt of the applicable Professional Services for which it was provided, (b) copy, modify, distribute, or create derivative works of any PS Usage Product, (c) place any lien or encumbrance of any kind on any PS Usage Product, or (d) move or transfer any PS Usage Product from the location designated by Riverbed or otherwise agreed by Riverbed in writing. Unless otherwise agreed by Riverbed, (i) Partner is responsible for and shall pay any import related charges incurred in connection with any shipment of any hardware PS Usage Product to any End User, (ii) within fifteen (15) days after receipt of Riverbed's request, Partner shall promptly return each hardware PS Usage Product to Riverbed and uninstall any Software only PS Usage Products in accordance with Riverbed's instructions, and (iii) Partner is responsible for and shall pay all shipping charges associated with the return to Riverbed of any hardware PS Usage Product, including any applicable export related charges. Partner shall use the original shipping container (or the equivalent). Riverbed will provide Partner with the shipping address at the time of the return request. Partner shall return all components of a hardware PS Usage Product, including any cables, cards, or other accessories. If mutually agreed by the parties, subject to Partner's payment of any applicable fees for such Professional Services, Partner shall ensure that the End User shall promptly permit Riverbed to access the End User's premises to collect any hardware PS Usage Products and/or uninstall any Software only PS Usage Products. Notwithstanding the foregoing, Partner is responsible for any loss of or damage to any of the PS Usage Products once shipped to, installed or otherwise provided at the End User's facilities until such PS Usage Products are returned to or collected by Riverbed, and if any such PS Usage Products are lost, damaged, or otherwise not returned to or collected by Riverbed in accordance with the foregoing requirements, Partner shall reimburse Riverbed for an amount not to exceed the then-current list price of the applicable Product. As used herein, return of a hardware PS Usage Product to Riverbed means confirmed delivery of the PS Usage Product to the location designated by Riverbed. Unless otherwise expressly agreed in a SOW or in a written agreement signed by Riverbed, Riverbed is not obligated to provide any support or maintenance services for any PS Usage Product. For clarity, subject to the foregoing terms and conditions, PS Usage Products are Products, not Deliverables, for purposes of these PS Terms and the Agreement.

(iv) If Partner is authorized under the Agreement to provide Managed Services, the additional terms and conditions in this Section apply. PS Usage Products may also be provided for installation at Partner's facilities for use by Riverbed, Partner or the End User, as applicable, in connection with Riverbed's performance of a Professional Services engagement. If a PS Usage Product is installed at Partner's facilities, any terms and conditions herein applicable to any End User with respect to any PS Usage Product will be deemed to apply to Partner and Partner shall comply with all such terms and conditions.

(c) **Nonexclusive Relationship.** Nothing in this Agreement will be construed as to preclude Riverbed from developing, using, marketing or otherwise exploiting products, services, hardware, software or other Intellectual Property that may be competitive with any Deliverables prepared for Partner or any End User hereunder, irrespective of whether such Intellectual Property is similar or related to the Deliverables developed hereunder, provided that Riverbed does not use or reference any Partner IP in such activities.

7. **Term; Effect of Termination.** These PS Terms will remain in effect for the term of the Agreement except as otherwise expressly provided below. Upon termination or expiration of any order for Professional Services or any SOW for any reason, (i) if Partner purchased directly from Riverbed, Partner shall pay Riverbed all amounts due or accrued under such order or SOW as of the date of such termination or expiration, and (ii) Partner shall return to Riverbed all Confidential Information and other materials of Riverbed relating to such order or SOW. Termination or expiration of any order for Professional Services or SOW will not affect any other order for Professional Services or SOW then

in effect. If the Agreement is terminated by Riverbed for Partner's breach of the Agreement, all SOWs then in effect will terminate. If the Agreement expires or is terminated for any other reason, any SOW then in effect will continue in effect subject to the terms and conditions of the Agreement (including these PS Terms) until the expiration or termination of such SOW. Upon any termination or expiration of the Agreement (including these PS Terms), the following Sections of these PS Terms will survive: 1 and 6.

8. **General.** Any capitalized terms used in these PS Terms, but not defined, will have the meanings attributed to such terms in the Agreement. These PS Terms are incorporated by reference into the Agreement and any breach of these PS Terms will be deemed a breach by Partner of the Agreement. Unless otherwise expressly indicated, "including" (and other variations thereof) means, as applicable, "including but not limited to". In the event of a conflict between the terms of these PS Terms and the terms of the remainder of the Agreement, the terms of these PS Terms will control solely with respect to Professional Services, unless otherwise mutually agreed upon by the parties in a SOW or other written agreement that expressly identifies the conflicting section(s) of these PS Terms and states that it is modifying these PS Terms. In the event of a conflict between the terms of any Service Documentation and a SOW, the terms of the SOW will control with respect to the Professional Services described in such SOW.