



625 Market Street, Suite 1000, San Francisco, CA 94105

LIGHTBEND CONSULTING AND TRAINING SERVICES AGREEMENT

PLEASE READ THIS CONSULTING AND TRAINING SERVICES AGREEMENT BEFORE PURCHASING OR USING THE CONSULTING SERVICES OR TRAINING SERVICES. BY USING OR PURCHASING THE CONSULTING SERVICES OR TRAINING SERVICES, CUSTOMER SIGNIFIES ITS ASSENT TO THIS AGREEMENT. IF YOU ARE ACTING ON BEHALF OF AN ENTITY, THEN YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. IF CUSTOMER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT PURCHASE OR USE THE CONSULTING SERVICES OR THE TRAINING SERVICES.

This Lightbend Consulting and Training Services Agreement ("Agreement") is by and between Lightbend, Inc., a Delaware corporation ("Lightbend") with its principal place of business at 625 Market Street, Suite 1000, San Francisco, CA 94105 and the customer ("Customer") identified on an order form incorporating this Agreement ("Order Form"), and is effective as of the date Lightbend signs the Order Form (the "Effective Date").

1. CONSULTING SERVICES AND TRAINING SERVICES.

1.1 Consulting Services. Subject to the terms of this Agreement, Lightbend will provide Customer consulting services ("Consulting Services") as set forth on an order form entered into between the parties.

1.2 Training Services. Subject to the terms of this Agreement, Lightbend will provide Customer training services ("Training Services") as provided on the applicable Order Form.

1.3 General Provisions. Consulting Services and Training Services (collectively, "Services") are only for Customer's internal use and Customer may not use the Services to supply any consulting services or training services to any third party. Services must be used within one (1) year of purchase.

2. PAYMENT. Customer will pay to Lightbend the fees and other compensation set forth in each Order Form. Customer will also reimburse Lightbend for all reasonable out-of-pocket travel and living expenses incurred in the provision of the Services, and any other reimbursable items set forth in each Order Form. All invoices will be paid within thirty (30) days from the date of the invoice. All payments are nonrefundable and made without the right of setoff or chargeback. Customer will pay interest, at a rate equal to one percent (1%) per month on any undisputed amount that remains unpaid thirty (30) days after the date of the invoice. If Customer fails to pay fees in accordance with this Section, Lightbend may suspend fulfilling its obligations under this Agreement until such payment is received by Lightbend. Customer will pay directly any taxes arising out of this Agreement or Lightbend's performance under this Agreement, including applicable local, state, federal and international sales taxes, value added taxes, withholding taxes, and any other taxes or duties of any kind, but excluding taxes on Lightbend's net income and all employer reporting and payment obligations with respect to Lightbend's personnel. If any applicable law requires Customer to withhold amounts from any payments to Lightbend under this Agreement, (a) Customer will effect such withholding, remit such amounts to the appropriate taxing authorities and promptly furnish Lightbend with tax receipts evidencing the payments of such amounts and (b) the sum payable by Customer upon which the deduction or withholding is based will be increased to the extent necessary to ensure that, after such deduction or withholding, Lightbend receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount Lightbend would have received and retained absent the required deduction or withholding.

3. OWNERSHIP.

3.1 Ownership of Deliverables. Unless otherwise set forth in an Order Form, Customer acknowledges that it is not obtaining any intellectual property rights from Lightbend under this Agreement. Customer acknowledges that in the course of performing its obligations under this Agreement, Lightbend may create software or other works of authorship (collectively "Work Product"). Subject to Customer's rights in its Confidential Information, Lightbend shall own all right, title and interest in such Work Product, including all intellectual property rights therein and thereto. If any Work Product is delivered to Customer pursuant to or in connection with the performance of Consulting Services (a "Deliverable"), Lightbend retains all right, title and interest in such Deliverables and hereby grants to Customer a nonexclusive, worldwide right and license to use, execute, reproduce, display and perform any such Deliverables.

3.2 Training Materials. Customer agrees and acknowledges that Customer is not obtaining any intellectual property right in or to any training materials provided by Lightbend to Customer in connection with the provision to Customer of Training Services ("Training Materials"), other than the rights of use specifically granted in this Agreement. Customer will be entitled to keep and use all Training Materials provided by Lightbend to Customer, but without any other license to exercise any of the intellectual property rights therein, all of which are hereby strictly reserved to Lightbend. In particular and without limitation, Training Materials may not be modified including translated, re-distributed, disclosed to third parties, lent, hired out, made available to the public, sold, offered for sale, shared, or transferred in any other way. During the term of this Agreement, Customer may copy the Training Materials for its internal use. All Lightbend trademarks, trade names, logos and notices present on the Training Materials will be preserved.

3.3 Residual Rights. Notwithstanding the above, Customer agrees that Lightbend, its employees and agents will be free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of any Services performed under this Agreement, subject to its obligations respecting Customer's Confidential Information pursuant to Section 4.

3.4 Customer's Materials. Customer grants to Lightbend a nonexclusive, non-transferable, royalty-free license to use materials provided by Customer to Lightbend during the term of this Agreement solely for the purpose of performing the Services for Customer.

4. CONFIDENTIAL INFORMATION.

For a period of five (5) years from the date of disclosure of the applicable Confidential Information, Customer shall (i) hold the Confidential Information in trust and confidence and avoid the disclosure or release thereof to any other person or entity by using the same degree of care as it uses to avoid unauthorized use, disclosure, or dissemination of its own Confidential Information of a similar nature, but not less than reasonable care, and (ii) not use the Confidential Information for any purpose whatsoever except as expressly contemplated under this Agreement; provided that, to the extent the Confidential Information constitutes a trade secret under law, Customer agrees to protect such information for so long as it qualifies as a trade secret under applicable law. Customer shall disclose the Confidential Information only to those of its employees and contractors having a need to know such Confidential Information and shall ensure that such employees and contractors comply with the provisions of this Section. The obligations of Customer under this Section shall not apply to information that Customer can demonstrate (i) was in its possession at the

time of disclosure and without restriction as to confidentiality, (ii) at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act by Customer, (iii) has been received from a third party without restriction on disclosure and without breach of agreement by Customer, or (iv) is independently developed by Customer without regard to the Confidential Information. In addition, Customer may disclose Confidential Information as required to comply with binding orders of governmental entities that have jurisdiction over it; provided that Customer gives Lightbend reasonable written notice to allow Lightbend to seek a protective order or other appropriate remedy, discloses only such Confidential Information as is required by the governmental entity, and uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information disclosed. "Confidential Information" means any and all information or proprietary materials (in every form and media) not generally known in the relevant trade or industry and which has been or is hereafter disclosed or made available by Lightbend to Customer in connection with the transactions contemplated under this Agreement, including (i) all trade secrets, (ii) existing or contemplated services, designs, technology, processes, technical data, engineering, techniques, methodologies and concepts and any related information, and (iii) information relating to business plans, pricing, sales or marketing methods and customer lists or requirements.

5. WARRANTY AND LIABILITY.

5.1 Limited Warranty. With respect to any Services, Lightbend warrants that Services rendered under this Agreement will be performed by qualified personnel; and the Services performed will substantially conform to any applicable requirements set forth in the Order Form.

5.2 Remedies. In the event that any Services fail to conform to the foregoing warranty in any material respect, the sole and exclusive remedy of Customer will be for Lightbend, at its expense, to promptly re-perform the applicable Services. The foregoing warranty is expressly conditioned upon (i) Customer providing Lightbend with written notice of any claim thereunder within three (3) days of delivery of the affected Services, which notice must identify with particularity the non-conformity; (ii) Customer's full cooperation with Lightbend in all reasonable respects relating thereto, including, in the case of modified software, assisting Lightbend to locate and reproduce the non-conformity; and (iii) with respect to any Deliverable, the absence of any alteration or other modification of such Deliverable by any person or entity other than Lightbend.

5.3 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5.1, LIGHTBEND DOES NOT MAKE OR GIVE ANY REPRESENTATION OR WARRANTY OR CONDITION OF ANY KIND, WHETHER SUCH REPRESENTATION, WARRANTY, OR CONDITION BE EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, TITLE, QUALITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION, WARRANTY OR CONDITION FROM COURSE OF DEALING OR USAGE OF TRADE.

6. EMPLOYEES.

6.1 No Employee Relationship. Lightbend's employees are not and will not be deemed to be employees of Customer. Lightbend will be solely responsible for the payment of all compensation to its employees, including provisions for employment taxes, workmen's compensation and any similar taxes associated with employment of Lightbend's personnel. Lightbend's employees will not be entitled to any benefits paid or made available by Customer to its employees.

6.2 Subcontractors. Lightbend may engage third parties to furnish services in connection with the Services, provided that such third parties have executed appropriate confidentiality agreements with Lightbend. In addition, Services may be performed by Affiliates of Lightbend. No engagement of a subcontractor will relieve Lightbend from any of its obligations under this Agreement. Affiliate means an entity that a party, directly or indirectly, controls, an entity that controls a party or an entity that is under common control with a party. For purposes of this provision, control means ownership of at least fifty percent (50%) of the outstanding voting shares of the entity.

6.3 Non-Solicitation. Neither party may hire, or directly or indirectly solicit or employ, any employee or contractor of the other party during the term of this Agreement and for twelve (12) months after the termination of this Agreement; provided, however, that nothing contained herein will prevent a party from hiring any such employee or contractor who responds to a general hiring program conducted in the ordinary course of business or who approaches such party on a wholly unsolicited basis.

7. TERM AND TERMINATION. The term of this Agreement will commence on the Effective Date and will remain and continue in effect, unless sooner terminated as provided under this Agreement. This Agreement may be terminated in whole or in part by each party (the "Non-Breaching Party") upon written notice to the other party if any of the following events occur by or with respect to such other party (the "Breaching Party"): (i) the Breaching Party commits a material breach of any of its obligations under this Agreement and fails to cure such breach within thirty (30) days after receipt of notice to do so; or (ii) any insolvency of the Breaching Party, any filing of a petition in bankruptcy by or against the Breaching Party, any appointment of a receiver for the Breaching Party, or any assignment for the benefit of the Breaching Party's creditors. Upon termination, Lightbend will be entitled to recover payment for all Services and related expenses rendered through the date of termination, including for work in progress. In the event of termination or upon expiration of this Agreement, Sections 2, 3, 4, 5.3, 6, 7, 8 and 9 will survive and continue in full force and effect.

8. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCE WILL LIGHTBEND BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOST REVENUE, LOST PROFITS, LOSS OF INCOME OR LOSS OF BUSINESS ADVANTAGE), WHETHER OR NOT FORESEEABLE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL LIGHTBEND'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID UNDER THE APPLICABLE ORDER FORM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. THESE LIMITATIONS OF LIABILITY WILL REMAIN IN FULL FORCE AND EFFECT, REGARDLESS OF WHETHER EITHER PARTY'S REMEDIES HEREUNDER ARE DETERMINED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THE PROVISIONS OF THIS SECTION 8 ALLOCATE RISKS UNDER THIS AGREEMENT BETWEEN CUSTOMER AND LIGHTBEND AND THE FEES CHARGED FOR THE SERVICES REFLECT THIS ALLOCATION OF RISKS AND LIMITATION OF LIABILITY.

9. MISCELLANEOUS.

9.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. Purchase orders shall be for the sole purpose of defining quantities, prices and describing the Services to be provided under this Agreement and to this extent only are incorporated as a part of this Agreement and all other terms in purchase orders are rejected. This Agreement supersedes all prior or contemporaneous discussions, proposals and agreements between the parties relating to the subject matter hereof. No amendment, modification or waiver of any provision of this Agreement shall be effective unless in writing and signed by both parties. In the event of a conflict between the terms of this Agreement and an Order Form, the terms of the Order Form will govern for that Order Form only. A statement of work signed by Lightbend and Customer and incorporating this Agreement may serve as an Order Form under this Agreement.

9.2 Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions shall remain in full force and effect and such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed to the extent necessary to make such provision valid and enforceable.

9.3 Waiver. No waiver of rights by either party may be implied from any actions or failures to enforce rights under this Agreement.

9.4 Force Majeure. Neither party shall be liable to the other for any delay or failure to perform due to causes beyond its reasonable control (excluding payment of monies due).

9.5 No Third Party Beneficiaries. Unless otherwise specifically stated, the terms of this Agreement are intended to be and are solely for the benefit of Lightbend and Customer and do not create any right in favor of any third party.

9.6 Governing Law and Jurisdiction. This Agreement shall be governed by the laws of the State of California, without reference to the principles of conflicts of law. The provisions of the Uniform Computerized Information Transaction Act and United Nations Convention on Contracts for the International Sale of Goods shall not apply to

this Agreement. The parties shall attempt to resolve any dispute related to this Agreement informally, initially through their respective management, and then by non-binding mediation in San Francisco County, California. Any litigation related to this Agreement shall be brought in the state or federal courts located in San Francisco County, California, and only in those courts and each party irrevocably waives any objections to such venue.

9.7 Notices. All notices must be in writing and shall be effective three (3) days after the date sent to the other party's headquarters as shown on the Order Form, Attention Legal Department.

9.8 Government Regulation. Customer acknowledges that the Deliverables may be subject to export restrictions by the U.S. government and import restrictions by certain foreign governments. Customer may not export or re-export the Deliverables except in compliance with the U.S. Export Administration Act and the related rules and regulations and similar non-U.S. government restrictions, if applicable. Customer shall not and shall not allow any third-party to remove or export from the United States or allow the export or re-export of any Deliverables or any direct product thereof: (i) into (or to a national or resident of) any embargoed or terrorist-supporting country; (ii) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (iii) to any country to which such export or re-export is restricted or prohibited, or as to which the U.S. government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (iv) otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority. Customer agrees to the foregoing and warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Deliverables are further restricted from being used for: (a) terrorist activity, or (b) the design or development of nuclear, chemical, or biological weapons or missile technology, without the prior permission of the U.S. government. The Deliverables and accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the Deliverables and Documentation by the U.S. Government shall be governed solely by the terms of this Agreement.