

STUDIO3 PURCHASE AGREEMENT MASTER ONLINE TERMS

All sales of Studio3 Products manufactured or distributed by Stryker Communications, Inc. ("**Stryker**") are subject to the following master terms and conditions, which are incorporated in to each Stryker Communications Studio3 purchase agreements are and designed to supplement each contract. In this Master Studio3 Purchase Agreement, the purchaser of the products is referred to as the "**Customer**" and the relevant sales contract between Stryker and Customer with respect to the Studio3 Products is referred to as the "**Agreement.**"

1. Definitions

- a. **Customer Acceptance** means the earlier of (i) the date of execution by Customer of the Studio3 Work Order Completion, (ii) Customer's utilization of the System or (iii) sixty (60) days after receipt of the System by Customer.
- b. **Documentation** means standard operator and user manuals provided by Stryker for use with the Software.
- c. **Enhancement** means a modification or addition that, when made or added to the Software, materially changes its ability, efficiency, functional capability, or application, but that does not constitute solely an Error Correction. "Enhancement" does not include additional functionality that Stryker may elect to license as a stand-alone product.
- d. **Error** means any failure of the Software to conform substantially to the Documentation.
- e. **Error Correction** means a modification or an addition that, when made or added to the Software, establishes material conformity of the Software to the Documentation, or a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect of such nonconformity.
- f. **Hardware** means the server(s) identified on the proposal.
- g. **Professional Services** means implementation, project management, installation, configuration, training, consulting, or other types of services (other than Maintenance and Support Services) to be performed by Stryker for Customer.
- h. **Services** mean Professional Services and Maintenance and Support Services.
- i. **Software** means the media server software identified on the proposal and includes error corrections, updates and new releases that may be provided under this Agreement as part of Maintenance and Support Services.
- j. **System** means the Hardware with the Software installed on it.

2. HARDWARE PURCHASE AND SOFTWARE LICENSE

- a. **Hardware Purchase.** Subject to the terms and conditions of this Agreement, Stryker agrees to deliver and Customer agrees to purchase the Hardware. Stryker shall install the Software on the Hardware prior to shipment. Shipping is FOB Stryker's facility. Title to the Hardware and risk of loss transfers to Customer upon delivery of the Hardware to the carrier. All Hardware will be shipped to the address indicated in the "ship to" portion of Customer's Purchase Order. Stryker reserves the right to refuse to ship the Hardware to third parties.
- b. **Grant of License.** Stryker grants to Customer a nontransferable (except as otherwise provided in Section 11(a), nonexclusive, perpetual license to use the Software and Documentation solely on the terms and conditions set forth in this Agreement.
- c. **Scope of Rights.** Customer may:
 - i. Use and execute the Software on a single-production server only.
 - ii. Use and execute the Software only in connection with the operations of the number of licensed Stryker authorized modality ("**SDC**") devices specified in the proposal.
 - iii. Make one (1) copy of the Software for nonproductive backup and archival purposes only, provided that Stryker's copyright and other proprietary legends are reproduced on the copy. Each copy that is made by Customer shall be the property of Stryker.

- iv. Make copies of the Documentation for Customer's internal use only, provided that Stryker's copyright and other proprietary legends are reproduced on each copy. Each copy that is made by Customer shall be the property of Stryker.
- d. **Restrictions.** In addition to other restrictions set forth in this Agreement, Customer may not:
 - i. Use, copy, modify or distribute the Software (electronically or otherwise) or any copy, adaptation, transcription or merged portion thereof except as expressly authorized under this Agreement;
 - ii. Use the Software for the benefit of third parties in a commercial, retail, service bureau or similar enterprise;
 - iii. Reverse assemble or decompile the Software or otherwise examine the Software for purposes of reverse engineering; or
 - iv. Remove the labels or any proprietary legends from the Software or its Documentation.
- e. **Title.** Stryker reserves all rights not expressly granted to Customer hereunder. Customer understands that the license granted herein transfers neither title nor proprietary rights to Customer with respect to the Software. Customer shall keep the Software free and clear of all liens, security interests and other encumbrances.
- f. **Right to Audit.** Stryker shall have the right, at any time, to audit Customer's use of the Software to monitor compliance with this Agreement. If an audit reveals that Customer has exceeded the restrictions on use, Customer shall pay for the cost of the audit and any additional license fees and maintenance and support fees charged by Stryker for such exceeded usage. If the audit is conducted on Customer's premises, Stryker shall give Customer at least ten (10) days' prior written notice and such audit shall be conducted during Customer's normal business hours. Upon request by Stryker, an executive officer of Customer shall certify in writing that Customer is in full compliance with the terms of this Agreement.

3. MAINTENANCE AND SUPPORT SERVICE

- a. **Services.** Customer shall receive the Services purchased in a separate services agreement ("Service Agreement"), which terms are incorporated by reference herein, if so purchased.
- b. **Customer Obligations.**
 - i. Customer shall comply with the Customer Responsibilities set forth in the Service Agreement. In the event that Customer does not comply with such requirements at the time of installation, Stryker may delay installation until all requirements are met.
 - ii. Customer shall maintain, at Customer's sole expense, such equipment and software as Stryker may reasonably require to permit Stryker to remotely access the System.
- c. **Services Outside Scope.** The exclusions set forth in Section 6(d) shall apply to Stryker's obligations under this Section 3. Services provided by Stryker that are not within Stryker's obligations under this Agreement shall be billed at Stryker's then-current time-and-material charges, including out-of-pocket expenses. Stryker's obligations under this Section 3 shall only apply to the most-current Release of the Software and the immediately preceding Release for a period of twelve (12) months following the release of the new Release. Implementation and certification services requested by Customer in connection with any Release will be billed at Stryker's then-current time-and-material charges.
- d. **Term.** The term for Maintenance and Support Services provided under this Agreement shall begin upon Customer Acceptance and shall continue for the period set forth in the Services Agreement. Stryker may terminate Maintenance and Support Services for the Software upon (i) at least twelve (12) months' written notice to Customer if Stryker discontinues the marketing and ongoing maintenance and support of the Software (i.e., sunsets the Software) or (ii) at least thirty (30) days' written notice effective on or after the fifth anniversary of the date of this Agreement.
- e. **Reinstatement.** If Maintenance and Support Services are discontinued by Customer or terminated for any period, and Customer desires to reinstate such services, Customer shall pay a reinstatement fee equal to one hundred fifty percent (150%) of all Maintenance and Support Services fees in arrears, in addition to the then-current annual Maintenance and Support Services fee.

4. OTHER SERVICES

- a. **Professional Services.** Stryker shall provide professional services as set forth in proposal (the “Professional Services”).

5. FEES AND PAYMENT TERMS

- a. **Hardware Purchase Price and License Fees.** Customer shall pay Stryker the Hardware purchase price and license fees set forth in proposal. The purchase price does not include freight or delivery charges. Unless otherwise provided in the proposal, these amounts shall be payable as follows:
 - i. **Deposit:** A non-refundable deposit of 50% of the aggregate Hardware purchase price and license fees shall be due upon Stryker’s acceptance of Customer’s order.
 - ii. **Additional Payments:** The remaining Hardware purchase price and license fees shall be invoiced upon Customer Acceptance and shall be due net within thirty (30) days of the date of Stryker’s invoice.
- b. **Maintenance and Support Fees.** Customer agrees to pay Stryker the annual maintenance and support fee set forth in the Service Agreement in accordance with the invoicing terms set forth therein. Stryker shall have the right to increase the annual support fees upon prior written notice to Customer at least sixty (60) days before expiration of the then-current term.
- c. **Professional Services Fees.** Except as otherwise expressly provided in this Agreement, Customer agrees to pay Stryker the fees set forth in the proposal for all Professional Services provided under this Agreement. Unless otherwise provided in the proposal, Customer shall pay the fees on a time-and-material basis based on Stryker’s then-current rates and charges for the Services. Stryker will invoice Customer upon completion of the Services. Any estimate provided by Stryker is not a guarantee and may be decreased or increased to reflect actual hours expended by Stryker.
- d. **Reimbursable Expenses.** In the event that Customer has not met any of its obligations as set forth herein with respect to the Services and Stryker is required make trip(s) which are not set forth on the proposal to Customer’s facility to perform Services, then Customer agrees to reimburse Stryker for all reasonable and customary out-of-pocket expenses, including, but not limited to, travel, lodging and communication expenses incurred by Stryker in connection with the performance of Services. Stryker shall invoice Customer for reimbursable expenses on a per occurrence basis.
- e. **Invoices.** All invoices shall be due and payable within thirty (30) days after the invoice date. Customer agrees to pay a late payment charge at the rate of one and one-half percent (1½%) per month, or at the maximum late payment charge permitted by applicable law, whichever is less, on any unpaid amount for each calendar month (or portion thereof) that any payment is ten (10) days past due. Stryker may apply any payment received to any delinquent amount outstanding.
- f. **Taxes.** The fees set forth in this Agreement do not include any amounts for taxes. Customer shall pay all applicable taxes levied by any tax authority based upon this Agreement, the Hardware, the Software and/or any Services performed by Stryker, excluding any taxes based upon Stryker’s income.

6. WARRANTIES

- a. **Standard Warranty.** Stryker warrants that, for a period of twelve (12) months following Customer Acceptance (the “Warranty Period”), that the System will operate in substantial conformance with its then-current Documentation and be free from defects in materials and workmanship. Stryker agrees to correct or replace, at no charge, any nonconformity of which it receives notice during the Warranty Period. Notwithstanding the foregoing, the warranty set forth in this Section 6(a) shall not apply to Enhancements and Error Corrections. Stryker’s sole obligation to Customer, and Customer’s exclusive remedy, for breach of this warranty is the correction or replacement of any nonconformity. Customer shall provide Stryker with written notice when a nonconformity exists, and Stryker shall have a reasonable period of time, based on the severity of the nonconformity, to correct. Stryker further warrants that to the best of its knowledge, the Software does not contain any viruses.
- b. **Services.** Stryker warrants that the Services provided under this Agreement will be performed in a workmanlike manner. Customer shall notify Stryker in writing of any breach of this warranty within

thirty (30) days after completion of the Service. Stryker's sole obligation to Customer, and Customer's exclusive remedy, for breach of this warranty is re-performance of the Service.

- c. **Third-Party Software.** STRYKER MAKES NO WARRANTY WITH RESPECT TO ANY THIRD-PARTY SOFTWARE, AND WHATEVER WARRANTY MAY APPLY TO ANY THIRD-PARTY SOFTWARE PRODUCT, IF ANY, IS ONLY AS IS EXPRESSLY STATED BY THE THIRD-PARTY OWNER OR LICENSOR OF THE THIRD-PARTY SOFTWARE. STRYKER EXPRESSLY DISCLAIMS ALL WARRANTIES FOR THE THIRD-PARTY SOFTWARE, WHETHER EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.
- d. **Exclusions.** Stryker's warranty obligations and other obligations under this Agreement (including Base and Premium service) with respect to the System are expressly conditioned upon Customer's proper use of the System and do not include:
 - i. Problems that result from (a) accident, negligence, neglect, abuse, misuse, computer viruses or use other than ordinary use or use in violation of an applicable license; (b) abnormal electrical power, air conditioning, or humidity controls that cause a computer failure; (c) modifications, repairs or attempted maintenance made to the System by anyone other than a representative of Stryker or its authorized agents and (d) damage during shipment;
 - ii. Problems and errors that Stryker cannot reproduce;
 - iii. Problems relating to or caused by any hardware, network, software or hardware that was not supplied by Stryker or hardware or software that does not meet the Minimum Specifications;
 - iv. Problems relating to or caused by changes in, or modifications to, the operating characteristics of any computer hardware or operating system for which the System is procured;
 - v. Hardware with altered, modified or removed serial numbers;
 - vi. Cosmetic damage, minor imperfections within design specifications or other damage that does not affect functionality; or
 - vii. Problems which could have been avoided by Customer's implementation of any prior Error Correction. Errors, defects, and malfunctions that are traceable to Customer's errors or system changes shall be billed at Stryker's time-and-material charges, including out-of-pocket expenses.
- e. **Disclaimer.** THE WARRANTIES SET FORTH IN THIS SECTION 6 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. STRYKER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. STRYKER DOES NOT WARRANT THAT THE SYSTEM WILL BE ERROR FREE OR THAT ALL ERRORS WILL BE CORRECTED.

7. CONFIDENTIAL INFORMATION

- a. **Defined.** As used in this Section 7, "**Confidential Information**" means and includes the Software, Documentation, terms of this Agreement, and any other information regarding (in written or tangible form) either party's business, operations or activities that is clearly marked with a confidential, private or proprietary legend.
- b. **Nondisclosure.** Except as otherwise provided in this Agreement, each party agrees that it shall not use or disclose to any third party any Confidential Information of the other party for any reason, except to its employees who require such knowledge in the ordinary course of their employment. Each party shall take all necessary action to ensure that its employees comply with the confidentiality provisions of this Section 7.
- c. **Exceptions.** The obligations set forth in this Section 7 shall not apply to any information that (a) is publicly available; (b) is obtained by the receiving party from a third party as a matter of right; (c) is already known or independently developed by the receiving party; or (d) is required to be disclosed by law.
- d. **Injunctive Relief.** Stryker and Customer agree that in the event of any breach of this Section 7, monetary damages may not be a sufficient remedy or protection for the aggrieved party, and that the

aggrieved party shall be entitled to an injunction or other relief as may be deemed proper or necessary by a court of competent jurisdiction.

8. INTELLECTUAL PROPERTY INDEMNIFICATION

- a. **Stryker Indemnification of Customer.** Except as otherwise provided in Section 8(d), Stryker agrees to indemnify and defend Customer against any claim or action brought by any third party for actual or alleged infringement of any United States patent, copyright, or trade secret based upon Customer's own internal use of the Software in accordance with this Agreement and to pay any damages and costs finally awarded against Customer or paid in settlement. Stryker shall have the sole right to conduct the defense of any claim or action and all negotiations for its settlement, unless the parties to this Agreement agree otherwise in writing.
- b. **Notice.** Customer shall give Stryker prompt written notice of any threat, warning, or notice of any claim or action that could have an adverse impact on Stryker's rights in the Software.
- c. **Alternatives.** Stryker shall not be responsible for any settlement entered into without its consent. In the event of a claim or action under Section 8(a), Stryker may, in its sole discretion, (a) procure for Customer the right to continue using the Software; (b) provide a substitute, non-infringing Software; or (c) terminate this Agreement and refund the license fees paid by Customer under Section 5(a), less depreciation using a three-year, straight-line method of calculation.
- d. **Exclusions.** Stryker shall have no obligation under this Section 8 with respect to any claim or action that is based upon (a) Customer's use of the Software in breach of any term or condition of this Agreement; (b) the use or combination of the Software with any third-party product, software, hardware, process or system; (c) modification of the Software other than by a representative of Stryker; (d) use of any version of the Software other than the most-current version of the Software, where use of the most-current version would have avoided the claim of infringement; or (e) use of the Software in a process that is protected by U. S. or foreign patent law.
- e. **Customer Indemnification of Stryker.** Customer agrees to indemnify and defend Stryker against any claim or action brought by any third party for actual or alleged infringement of a patent, copyright, trade secret or other intellectual property right in the U.S. or a foreign country based upon (a) Customer's use of the System in breach of any term or condition of this Agreement; (b) the use or combination of the System with any third-party product, software, hardware, process or system; (c) modification of the Software other than by a representative of Stryker; (d) use of any version of the Software other than the most-current version of the Software, where use of the most-current version would have avoided the claim of infringement; or (e) use of the System in a process that is protected by U. S. or foreign intellectual property law. Customer further agrees to pay any damages and costs finally awarded against Stryker or paid in settlement. Customer shall have the sole right to conduct the defense of any claim or action and all negotiations for its settlement, unless the parties to this Agreement agree otherwise in writing.
- f. **Sole Remedy.** This Section 8 states each party's sole responsibility and obligation, and each party's sole and exclusive remedy for any infringement claim.

9. LIMITATION OF LIABILITY

- a. **Limitation.** STRYKER'S LIABILITY FOR DAMAGES OF ANY KIND, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY, SHALL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT EXCEED (I) IN THE EVENT OF DAMAGES ASSOCIATED WITH A SERVICE, THE FEE PAID BY CUSTOMER FOR THAT SERVICE; OR (II) IN ALL OTHER CASES, THE FEE PAID BY CUSTOMER FOR THE SYSTEM. THE FOREGOING LIMITATION SHALL IN NO EVENT APPLY TO A CLAIM FOR INDEMNIFICATION UNDER SECTION 8(a).
- b. **Disclaimer.** NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, LOST OR DAMAGED DATA, AND LOSS OF BUSINESS OPPORTUNITY) THAT THE OTHER PARTY MAY INCUR OR EXPERIENCE IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, TORT, STRICT LIABILITY AND NEGLIGENCE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY.

10. TERM AND TERMINATION

- a. **Agreement.** This Agreement shall begin on the date that Stryker accepts Customer's order and shall remain in full force and effect until the last agreement has expired or has been terminated.
- b. **Termination by Either Party.** Either party may at its option terminate this Agreement immediately upon written notice to the other party if the other party:
 - i. Breaches its confidentiality obligations under Section 7;
 - ii. Breaches any of its obligations as set out in this Agreement (other than Section 7) and fails to cure the breach within thirty (30) days after written notice of the breach from the other party;
 - iii. Ceases conducting business in the normal course, admits its insolvency, makes an assignment for the benefit of creditors; or
 - iv. Becomes the subject of any judicial or administrative proceedings in bankruptcy, receivership or reorganization and such proceeding is not dismissed within ninety (90) days after it is commenced.
- c. **Effect of Termination.** Upon termination of this Agreement, Customer shall immediately cease using the Software and shall either destroy or return the original and all copies, in whole or in part, in any form, of the Software and related materials. Customer shall certify such action in writing to Stryker within one (1) month after the termination date. If Customer terminates Maintenance and Support Services under Section 10(b) above, Customer shall receive a prorated refund of the annual support fee paid for the then-current term. Upon termination, Customer shall immediately pay all outstanding amounts due and owing to Stryker.
- d. **Survival of Certain Obligations.** Obligations and rights in connection with this Agreement which by their nature would continue beyond the termination of this Agreement, including without limitation, Sections 7, 8 and 9, shall survive termination of this Agreement.

11. GENERAL

- a. **Assignment.** Customer may not assign, sublicense or otherwise transfer its rights, duties or obligations under this Agreement, in whole or in part, without the prior written consent of Stryker, which consent shall not be unreasonably withheld or delayed.
- b. **Amendments.** No provision of this Agreement may be amended or modified except by a written document signed by duly authorized representatives of both parties.
- c. **Notices.** Any notice or other communication required or permitted under this Agreement in writing shall be deemed delivered when mailed, by certified mail, return receipt requested, postage prepaid to the address set forth below or such other address as either party by like notice designates to the other party.
- d. **Excusable Delays.** Neither party shall incur liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement, excluding payment obligations, where such failure is caused in whole or in part by events, occurrences, or causes beyond the reasonable control of the party, provided that such party has taken reasonable steps to mitigate the effects of such delay.
- e. **Export Restrictions.** Both parties agree to comply with all export and re-export restrictions and regulations imposed by the United States government, or corresponding or similar laws of other countries where Customer is licensed to use the Software.
- f. **Governing Law.** This Agreement shall be governed by and interpreted according to the laws of the State of Texas without regard to conflicts of law principles. It shall not be governed by the United Nations Convention on the International Sale of Goods.
- g. **Severability.** If any provision of this Agreement is prohibited or unenforceable by any applicable law, the provision shall be ineffective only to the extent and for the duration of the prohibition of unenforceability, without invalidating any of the remaining provisions.
- h. **Entire Agreement.** This Agreement embodies the entire agreement and understanding between Stryker and Customer with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements and understandings relating to the subject matter of this Agreement. No

statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Agreement shall affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement. The terms and conditions of any purchase order or other instrument issued by Customer which are in addition to or inconsistent with this Agreement shall be of no effect and shall not be binding on Stryker.