



EXHIBIT D – PROFESSIONAL SERVICES TERMS AND CONDITIONS

This Professional Services Terms and Conditions (the “PST”) is made a part of the Software and Services Order (the “SSO”), executed by and between the individual or entity named in the SSO (the “Customer), and frevvo Inc., a Delaware corporation with offices at 500 East Main St, Branford, CT 06405 (“frevvo” or “FREVO”). Pursuant to this PST, frevvo will provide Professional Services directly to Customer. This PST sets forth all of the rights, benefits, responsibilities and obligations of Customer and frevvo respecting frevvo’s provision of the Professional Services specified in the SSO, and constitutes the complete and exclusive agreement of Customer and frevvo regarding their respective rights, benefits, responsibilities and obligations connected with such Professional Services.

frevvo agrees to provide installation, training, consulting and other professional services (the “Professional Services”) to Customer respecting various projects identified by Customer (individually or collectively, the “Projects”). This PST contains general contractual terms for the Professional Services to be provided by frevvo to Customer hereunder.

1. **Definitions.** For purposes of this PST, the Definitions in the SSO and the relevant Exhibit A incorporated into the SSO (Cloud – Terms of Use or End User License Agreement) shall apply unless defined below. The following additional Definitions shall apply:
 - 1.1. “Customer Data” shall mean the text, data, images, sounds, photographs, illustrations, graphics, programs, code and other materials provided by Customer to frevvo in order for frevvo to perform the Professional Services hereunder.
 - 1.2. “Export Laws” means all relevant export and encryption laws and regulations of the United States.
 - 1.3. “Services” shall mean the Professional Services or any other services provided by frevvo to Customer.
 - 1.4. “SOW” or “Statement of Work” shall mean a document that describes the particular Professional Services to be performed thereunder, as well as any additional provisions regarding price, anticipated duration, standards or performance requirements, and any modifications to the terms hereof.
 - 1.5. “SMT” shall mean any applicable Support and Maintenance Terms and Conditions between Customer and frevvo.
 - 1.6. “Term” shall have the meaning ascribed to it in Section 2.1.



2. **Term and Termination** This PST shall be effective upon the Effective Date and continue until terminated and/or the termination of all SOWs issued pursuant thereto (its "Term"). In the event Customer terminates this PST or any SOW prior to the conclusion of the Term, Customer shall pay to frevvo all charges for Professional Services provided through the effective date of such cancellation plus any cancellation charge set forth in the SOW. Customer must provide frevvo with at least forty-eight (48) hours notice of cancellation or delay of any portion of a SOW, and Customer shall pay all fees that would otherwise accrue had frevvo provided Services during such period.

frevvo may terminate this PST and/or cease or suspend the provision of any Services upon default of Customer hereunder or under the SSO, Terms, any other PST or any SMT. Default includes (i) the failure to pay any amount when due hereunder (after five (5) days notice of such failure to pay); (ii) the filing of a petition in bankruptcy by or against Customer; and (iii) any material breach of its obligations under this PST, the Terms, any SMT or any other PST, or conduct that frevvo, in its sole discretion, believes may subject frevvo to civil or criminal litigation, charges, or damages. If frevvo has suspended the Services pursuant to this Section, frevvo may require a reactivation fee in order to resume such Services. Termination shall not relieve Customer of its obligation to pay all fees for Services accrued and owing up to and including the date of termination or otherwise payable pursuant to Section 2.1 above, nor shall it preclude frevvo from pursuing any other remedies available to it, at law or in equity.

In the event a law or regulatory action prohibits, substantially impairs or makes impractical the provision of any Professional Services under this PST, as determined by frevvo, frevvo may, at its option, terminate this PST or modify any Professional Services or the terms and conditions of this PST in order to conform to such action, upon thirty (30) days written notice to Customer without liability; provided, however, that frevvo may reduce the foregoing notice period, if reasonably necessary under the circumstances. Use by Customer of the Professional Services for a period of thirty (30) days after notice of any change(s) shall constitute acceptance of such changes.

3. **Rights and Obligations of Customer.** Customer represents and warrants that (a) it has full right and authority to enter into this PST; (b) it will not use the Professional Services in any manner which is in violation of any law or governmental regulation, (c) the Customer Data will not violate or infringe the rights of others, including, without limitation, any patent, copyright, trademark, trade dress, trade secret, privacy, publicity, or other personal or proprietary right; (d) the Customer Data will not result in the obligation of frevvo to make payment of any third party licensing fees; and (e) it will comply with all Export Laws to assure that neither the Professional Services



nor any direct product thereof are used in a manner (1) directly or indirectly, in violation of Export Laws; or (2) intended to be used for any purposes prohibited by Export Laws.

4. **Equipment or Software Not Provided by frevvo.** Except as set forth in a SOW, Customer shall be solely responsible for the installation, operation, maintenance, use and compatibility of equipment or software not provided by frevvo (such equipment shall include by way of example, but not be limited to: computers, monitors, cable modems or such other connectivity device, printers, scanners, etc.), and frevvo shall have no responsibility or liability in connection therewith. In the event that equipment or software not provided by frevvo impairs Customer's receipt of any Professional Services, Customer shall nonetheless be liable for (a) payment for all Professional Services provided by frevvo, and (b) any costs and expenses for any support and/or maintenance related to such equipment incurred by frevvo or its providers. Customer shall cooperate with frevvo in setting the initial configuration for its equipment's interface with the Professional Services and shall comply with frevvo's instructions in connection therewith.
5. **Rights and Obligations of frevvo; Disclaimer of Warranties.** Customer agrees that it is solely responsible for assessing its own service needs and the results to be obtained therefrom, and frevvo exercises no control whatsoever over the products, information or Professional Services offered or made available or accessible to Customer.

EXCEPT AS SPECIFICALLY SET FORTH HEREIN OR AS SPECIFICALLY IDENTIFIED AS A WARRANTY IN A SOW, THE SERVICES AND RELATED SOFTWARE AND/OR EQUIPMENT PROVIDED BY FREVVO, IF ANY, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT, UNINTERRUPTED ACCESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY FREVVO, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE A WARRANTY.

6. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL FREVVO, ITS SERVICE PROVIDERS, ITS AFFILIATES OR AGENTS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LOST OR IMPUTED PROFITS OR ROYALTIES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES ARISING FROM OR RELATED TO THE SERVICES OR THIS PST WHETHER FOR, AMONG OTHER THINGS, BREACH OF WARRANTY OR ANY OBLIGATION ARISING



THEREFROM, AND WHETHER LIABILITY IS ASSERTED IN, AMONG OTHER THINGS, CONTRACT OR TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE AND STRICT PRODUCT LIABILITY) WHETHER OR NOT FREVVO HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. FREVVO'S LIABILITY HEREUNDER SHALL IN NO EVENT EXCEED THE FEES FOR THE SERVICES RECEIVED BY FREVVO DURING THE NINETY (90) DAY PERIOD IMMEDIATELY PROCEEDING THE DATE ON WHICH THE CLAIM AROSE. CUSTOMER HEREBY WAIVES ANY CLAIM THAT THESE EXCLUSIONS DEPRIVE IT OF AN ADEQUATE REMEDY OR CAUSE THIS PST TO FAIL OF ITS ESSENTIAL PURPOSE.

7. **Indemnity.** Customer agrees to defend, indemnify and hold frevvo and its affiliates harmless from any and all liabilities, costs and expenses, including reasonable attorneys' fees, related to or arising from: (a) any breach of this PST by Customer or those authorized by Customer; (b) the use of the Services on the Internet or the placement or transmission of any information, software or other materials on the Internet by Customer or those authorized by Customer, including but not limited to any Customer Data; (c) acts or omissions of Customer, Customer's officers, employees, agents or contractors in connection with, among other things, the installation, maintenance, presence, use or removal of systems, channels or equipment or software not provided by frevvo connected or to be connected to the Services; and (d) claims for infringement of any third party proprietary right, including copyright and trademark rights, arising from the use of any services, equipment and software, apparatus and systems not provided by frevvo in connection with any Services.
8. **General.**
 - 8.1. **Severability.** If any provision of this PST or any SOW attached hereto is held invalid or otherwise unenforceable, the enforceability of the remaining provisions of this PST and the SOW will not be impaired thereby.
 - 8.2. **No Waiver.** The failure by any party to exercise any right or remedy provided for herein shall not be deemed a waiver, partial or complete, of any right or remedy hereunder.
 - 8.3. **Complete Agreement; Precedence.** This PST, including any SOWs entered into hereunder, may not be executed (or otherwise entered into) or modified except in writing by authorized signatories of Customer and frevvo, and sets forth the entire understanding of the parties as to the Professional Services to be provided hereunder. In the event of a conflict between the terms of this PST and the SOW or SOWs or schedules attached thereto, the terms of this PST shall control.
 - 8.4. **Governing Law; Arbitration; Venue.** This PST shall be governed by and construed in accordance with the laws of the State of Connecticut, without regard to that body of law applicable to conflicts of laws.



8.5. **Remedies.** The rights and remedies of each party as set forth in this PST are not exclusive and are in addition to any other rights and remedies available to it in law or in equity.

8.6. **Survival.** All provisions of this PST relating to liability, warranties, indemnities, as well as the provisions of Sections 2, 3, 4 and 8 of this PST, shall survive the expiration or termination of this PST.

9. Questions

If you have questions about this PST, you can contact us by email at: info@frevvo.com or by mail at: frevvo Inc., 500 East Main Street, Branford, CT 06405, USA.