MyCare Program Terms

These MyCare Program Terms ("Terms") apply to all MyCare Subscriptions and related Services (defined below) offered, sold, or otherwise supplied by Hexagon to Customer and will form an integral part of any Quote and Contract for MyCare Subscriptions and/or Services. Any acceptance by Customer of a Quote, or issuance of a purchase order in response to any Quote, is expressly limited to acceptance of these Terms. Customer’s ordering of any MyCare Subscription or Services shall constitute acceptance of these Terms. Any additional or different terms and conditions contained in any Customer purchase order (or other Customer-issued document) are not binding on Hexagon, unless separately signed by Hexagon.

1 DEFINITIONS.

1.1 “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control” for purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

1.2 “Contract” means a written contract by and between Hexagon and Customer for sale or supply of MyCare Subscriptions and/or Services by Hexagon to Customer, including without limitation any such contract resulting from: (i) Customer’s acceptance of a Quote by signing and returning a copy of the Quote to Hexagon; (ii) Customer’s issuance of a purchase order (or payment) in response to a Quote and Hexagon’s acknowledgement of the order; or (iii) a mutually signed agreement between the parties.

1.3 “Customer” or “Buyer” means the customer ordering the Subscription or Services from Hexagon.

1.4 “Hardware Maintenance” means hardware maintenance services as described in the Quote, the Program Overview, and these Terms.

1.5 “Hexagon” or “Seller” means the legal entity that is a member of the Hexagon Group and is quoting and selling the Subscription or Services to Customer, as identified in the Quote, order acknowledgement, or other Contract document.

1.6 “License Keys” means entitlement ID, license keys, activation codes, or physical dongle/portlock required to install, access, and/or use the Software.

1.7 “Machine” means an industrial measurement machine (e.g., coordinate measuring machine, portable measuring arm, laser tracker) entitled to MyCare Benefits by virtue of Customer purchasing a Subscription for that Machine. Each Subscription purchased covers one Machine.

1.8 “MyCare Benefits” means Hardware Maintenance, Software Maintenance, and/or other benefits made available to Customer under a MyCare Offering, as set forth in the applicable Quote, the Program Overview, and these Terms.

1.9 “MyCare Offerings” means the various MyCare Subscription offerings made available by Hexagon, such as MyCare Essential, MyCare Premium, MyCare Enterprise and MyCare Legacy.

1.10 “MyCare Subscription” or “Subscription” means an annual (or other short-term) contract for a MyCare Offering. The specific Subscription term will be as set forth in the Quote.

1.11 “Program Overview” means the Hexagon MyCare Program Overview document describing the MyCare Benefits available under the various MyCare Offerings.

1.12 “Quote” means Hexagon’s final quotation, proposal, Subscription renewal notice, order form, or the like, in electronic or paper form, for MyCare Subscription(s), specifying, among other things, the Hexagon entity’s name and address, the Customer name and address, the MyCare Offering and System for which Subscription is ordered, the Subscription period, as well as the associated Subscription fees. “Quote” also includes any Hexagon quotation or proposal for optional purchases as described in Section 3.7 (“In-Scope Optional Purchases”) below.

1.13 “Services” means, for the purposes of this Agreement, services and tasks that Hexagon provides, or is obligated to provide, under the Subscription, as well as any other MyCare-related services and tasks provided under the Contract (see also Section 3.7 below).

1.14 “Software” means the licensed application software program, in executable form, identified in the Quote and associated with the System. Software shall also include Updates and License Keys.

1.15 “Software Maintenance” means Software maintenance services as described in the Quote, Program Overview, and these Terms.

1.16 “System” means the Machine, together with the associated Software.

1.17 “Updates” means error corrections, patches, updates and subsequent releases of the Software (and related end-user documentation), if any, made generally available at no additional charge to other Hexagon end-user customers of that Software who have are entitled to Software Maintenance Updates. Any Update rights granted to Customer under a Subscription extend only to the features, modules, options or portions of the Software for which Customer has lawfully acquired a valid underlying license.

1.18 Additional terms with specific meanings are defined near where they first appear in these Terms.
2 **SUBSCRIPTION.**

2.1 MyCare Offerings provide multi-tiered System-based support services on a Subscription basis. MyCare Offerings are designed to provide attractive tailored support options for a wide range of measurement systems and usage requirements.

2.2 Subject to the terms and conditions of the Contract, including without limitation Customer’s timely payment in full of all applicable fees and charges, Hexagon will, for the duration of the applicable Subscription term, provide Customer with MyCare Benefits for the respective Subscription validly acquired by Customer.

3 **HARDWARE MAINTENANCE & OTHER SERVICES.**

3.1 **Hardware Maintenance.** If Customer acquires a Subscription that includes Hardware Maintenance coverage, Hexagon will provide Customer with Hardware Maintenance as described in the Contract for the System for which the Subscription was purchased.

3.2 **System Condition; Reinstatement Repairs.** Systems eligible for a Subscription must either be new or in good operating condition on the date the Subscription is purchased. Hexagon reserves the right to inspect the condition of the System prior to and as a condition of performing its Hardware Maintenance obligations. Hexagon will contact the Customer to schedule any inspection requested by Hexagon. The service engineer will be prepared to certify the Machine at the time of the inspection.

For inspection and Hardware Maintenance of portable Machines (including portable measuring arms and laser trackers), Customer is responsible for shipping the portable Machine, at its own expense, to and from Hexagon’s designated inspection facility in accordance with the packaging and shipping instructions provided by Hexagon. If upon inspection, Hexagon determines the System is not in good operating condition, Hexagon will present to Customer a quotation for performing repairs necessary for reinstating the System to good operating condition as determined by Hexagon ("Reinstatement Repairs"). Reinstatement Repairs are separate and apart from MyCare Subscription Services, and are subject to separate quotations, fees and charges, and Hexagon Terms of Services. If Customer instructs Hexagon to proceed with the Reinstatement Repairs, Customer will not be billed for the inspection, and upon successful completion of the Reinstatement Repairs, Customer’s System will be placed under MyCare Subscription, subject to Customer’s ordering and payment of applicable MyCare fees and charges. If Customer does not wish to proceed with the Reinstatement Repairs, Customer will be billed at the prevailing Hexagon rates for the inspection and Hexagon will have no other obligations.

3.3 **Access to System.** Customer shall grant to Hexagon such access and use of the System reasonably required by Hexagon to perform applicable Hardware Maintenance Services. For a coordinate measurement machine ("CMM"), sufficient clearance around all components of the CMM must be maintained. If a delay is caused by non-access to the System, Customer will be billed for Hexagon’s time involved waiting for access. The System will not be available to Customer during the performance of any inspection, Reinstatement Repairs, or Hardware Maintenance services. Customer represents that it is the owner of the Machine under the Subscription, or if not the owner, has authority from the owner to include such System under MyCare.

3.4 **Scheduling.** On-site Service work will be scheduled at a mutually agreed time, during regular Hexagon working days and hours.

3.5 **System Location.** Customer will promptly advise Hexagon of any changes in the location of the System. In addition to any other rights and remedies reserved by Hexagon, Customer changes in the location of the System covered by a Subscription may result in additional fees and charges (e.g., additional travel-related expenses for Services).

3.6 **Travel.** Unless otherwise agreed by Hexagon in writing, travel will be billed at Hexagon’s prevailing rates.

3.7 **In-Scope Optional Purchases.** In addition to Subscriptions, the Program Overview may present some or all MyCare Subscription customers with the option to purchase, for additional fees and charges, certain additional Services or items for their MyCare-covered system(s). To the extent the Program Overview presents customers with options to purchase additional certification, calibration, or labor repair services (and/or any related replacement parts or components), or similar services, for their MyCare-covered systems; any Quotes, purchase orders or contracts for such additional purchases shall be subject to these Terms.

3.8 **Out of Scope Purchases.** For avoidance of doubt, the following is a non-exclusive list of potential purchases that are out of scope and NOT governed by these Terms: (i) purchase of industrial measurement machines (e.g., coordinate measuring machine, portable measuring arm, laser tracker); (ii) purchase of services not provided under MyCare; (iii) purchase of Software licenses; (iii) purchase of any offerings listed under MyCare Rewards; (iv) purchase of training, online training, or cloud subscriptions. Quotations and contracts for each of the foregoing offerings shall be subject to Hexagon’s then-
current standard terms and conditions applicable to that offering.

4 SOFTWARE MAINTENANCE.

4.1 Software Maintenance Updates. If Customer acquires a Subscription with coverage for Software Maintenance Updates, then during the applicable Subscription term and subject to the terms and conditions of the Contract, Hexagon will (directly, or through its Affiliates or subcontractors as applicable) make available to Customer such Updates, if any, that Hexagon, in its sole discretion, makes generally available at no additional charge to other Hexagon end-user customers of that Software who have are entitled to Software Maintenance. Customer may install and use such Updates solely in connection with the licensed Software for which the Subscription was purchased. Updates shall not entitle Customer to any release, option, module, or future product, which Hexagon, in its sole discretion, licenses separately or offers for an additional fee. Hexagon is under no obligation to develop any future programs or functionality.

4.2 Software Technical Support. If Customer acquires a Subscription with coverage for Software Maintenance Technical Support, then during the applicable Subscription term and subject to the terms and conditions of the Contract, Hexagon (or its Affiliates or subcontractors, as applicable) will provide Customer with technical support for the licensed Software for which the Subscription was purchased. Technical support will be provided via telephone, email, and/or any other remote means Hexagon, in its sole discretion, makes generally available from time to time under technical support. Technical support is provided only for supported versions of the Software (as determined by Hexagon in its sole discretion), running unaltered, and on an appropriate hardware and operating system configuration, as specified in the applicable Software documentation. Technical support is limited to reasonable assistance in response to Customer’s technical support inquiries regarding: (i) Software installation, (ii) Software errors, and (iii) general questions regarding the usage of Software features. Technical support does not include training, consulting, on-site services, support for hardware, or the provision of engineering judgment for a customer-specific situation. Upon Hexagon’s request, Customer shall provide information required by Hexagon to verify that Customer and the specific license are entitled to technical support. To allow Hexagon to properly address technical issues, Hexagon may request that Customer provide files and other materials and information.

4.3 Software Delivery and License Keys. Hexagon reserves the right to deliver Updates either by making them available to Customer electronically (e.g., make available for electronic download) or by physical shipment, as determined by Hexagon in its sole discretion. Customer acknowledges that Updates may be protected by a license manager and require License Keys to access and use. Any such required License Keys will be issued by Hexagon or its Affiliates in accordance with their then-current license key management policies and practices. Customer shall provide Hexagon with computer information required by Hexagon to generate any necessary License Keys. Any Customer requests for replacement License Keys are subject to Hexagon’s then-current policies and Customer’s payment of applicable fees. Hexagon has no obligation to provide replacement License Keys if: (i) the Software is not supported on the proposed substitute computer; (ii) if Customer is in breach of the Contract; or (iii) if the applicable Software is not covered by Software Maintenance.

4.4 Software Maintenance Lapse. If Software Maintenance lapses (or was not initially acquired), and Customer wishes to procure a Subscription, Customer will be assessed additional back maintenance fees for the period the Software was not maintained, as well any applicable reinstatement fees, in accordance with Hexagon’s then-current policies.

5 TERM AND TERMINATION

5.1 Subscription. The Subscription term shall be as set forth in the applicable Quote. Subscriptions are not subject to early termination, except as set forth in Sections 5.3 and 5.4.

5.2 Renewals. The parties may renew the Subscription for successive annual terms by: (i) Hexagon providing Customer with a Quote for that Subscription renewal; (ii) Customer submitting an order (or making payment) for such renewal; and (iii) Hexagon acknowledging the order. Hexagon reserves the right to accept or reject any order in its sole discretion. Subscriptions must be continuous with no gaps in coverage period. Unless expressly agreed otherwise by Hexagon, the start dates for renewal orders accepted by Hexagon after the proposed renewal date will be made retroactive to the renewal start date set forth in the applicable Quote (and if no date is so stated, the date after expiration of the prior Subscription term).

Pricing for each Subscription renewal shall be as set forth in the applicable renewal Quote.

5.3 Termination for Breach. Either party may terminate the Contract, effective immediately upon written notice to the other party, for a material breach by the other party of any term of the Contract that remains uncured thirty (30) days (ten (10) days in the event that the breach is a failure of Customer to make any payment required hereunder) after the non-
breaching party first gives written notice to the other party of such breach and its intent to terminate this Contract if such breach is not cured.

5.4 Additional Rights to Terminate Subscription. Hexagon reserves the right to terminate the applicable Subscription at any time upon notice: (i) due to Customer’s or its users’ misuse or abuse of the System, Customer’s failure to perform recommended repair, or Customer’s failure to provide proper operating conditions for the System; or (ii) in the event Customer relocates the System to another country. In the event of any such termination of the Subscription by Hexagon, Customer shall remain responsible for full payment of Subscription fees for the terminated Subscription; any other Subscriptions under the Contract shall remain in full force and effect in accordance with their terms.

5.5 Effect of Termination. Upon termination or expiration of the Contract, all Customer rights and benefit entitlements granted hereunder (including without limitation all rights under purchased Subscriptions or Services) in relation to the Contract will terminate. Upon termination or expiration of any Subscription, all rights and benefit entitlements granted hereunder in relation to that Subscription will terminate. Termination or expiration of the Contract (or any Subscription) shall not relieve Customer from any obligation (including payment obligations) accrued on or before the date of expiration or termination. Provisions that survive expiration or termination of the Contract include those in Sections 5.5, and 6 through 13 and others which by their nature are intended to survive.

6 FEES, TAXES AND PAYMENT.

6.1 Fees and Payment. Customer shall timely pay, without set off or deduction, all amounts payable under the Contract, including without limitation all fees and charges for ordered Subscriptions and Services. Payments will be due and payable in the currency identified in the applicable Quote or invoice. Payment is due and payable as set forth in the applicable Quote, and if no payment due date is set forth in the applicable Quote, payment is due and payable as invoiced by Hexagon. Any amount not paid when due will bear interest until paid at the rate of one percent (1%) per month or the maximum rate of interest allowed by applicable law, whichever is less. In addition, Customer will reimburse Hexagon for any reasonable legal fees and other costs and expenses incurred in collecting past due amounts. Customer’s payment obligations under the Contract are non-cancelable and the sums paid nonrefundable.

6.2 Taxes. Prices and fees are exclusive of all applicable sales, use, value added, and other taxes (and all applicable tariffs, customs duties and similar charges), and Customer will be responsible for payment of all such taxes (other than taxes based on the net income of Hexagon), tariffs, duties and charges (and any related penalties and interest), payable in connection with the Contract or the provision of Subscriptions or Services. If Customer is claiming tax exemption status, Customer must provide a valid tax exemption certificate.

6.3 Right to Suspend Performance. In the event Customer fails to pay any amount when due, or otherwise breaches the Contract, Hexagon may, without prejudice to any other right or remedy available to Hexagon, suspend its performance until Customer cures such breach.

7 INTELLECTUAL PROPERTY. The Contract does not transfer or assign to Customer any intellectual property rights. Hexagon, its Affiliates and third-party suppliers shall retain ownership of all intellectual property they had prior to the Contract. All new intellectual property conceived or created by or on behalf of Hexagon or its Affiliates in the performance of the Contract shall be owned exclusively by Hexagon (or its Affiliates, as applicable). Customer will not: (a) decode, reverse engineer, or decompile any items, Software, or Services, in whole or in part, unless expressly permitted by applicable law without the possibility of contractual waiver; (b) reproduce, copy, distribute, make derivative works or publicly perform any intellectual property of Hexagon or its Affiliates (“Hexagon Intellectual Property”) manifested in a tangible medium of expression (including, without limitation, any Software), without prior written consent of Hexagon; (c) circumvent, directly or indirectly, any technical measures or devices securing Hexagon Intellectual Property; or (d) otherwise access or manipulate the Hexagon Intellectual Property, except as expressly permitted in writing by Hexagon. Customer agrees to strictly comply with all terms of the underlying license agreements applicable to the Updates, including but not limited to use limitations, intellectual property restrictions, and the prevention of unauthorized use, copying and disclosures. Customer agrees that the terms of the underlying license agreement for the Software shall extend to Updates provided to Customer hereunder, unless the Updates are accompanied by their own license agreement, in which case such accompanying terms will apply with respect to the Updates. Any references to the “sale” of or “selling” or “purchase” of Software shall mean sale or purchase of a license to use such Software; Software is licensed and not sold. No new license to the Software is granted or sold under MyCare Subscriptions or Services; purchase of underlying licenses of the Software is subject to separate Hexagon terms and conditions, and requires payment of separate fees.

8 OTHER
8.1 **Use of Information.** Customer shall maintain in confidence any non-public commercial and pricing information disclosed to Customer by or on behalf of Hexagon, and Customer shall not disclose such information to any third party and shall not use any such information for a purpose other than as agreed by the parties and in relation to the Contract. Customer agrees that Hexagon may disclose Customer’s information, including without limitation, contact information and technical information, to Hexagon Affiliates, and suppliers, channel partners and subcontractors, wherever they do business, in furtherance of the Contract and Hexagon’s business relationship with the Customer. If Customer provides Hexagon or Hexagon Affiliates with feedback, recommendations, or suggestions about goods or services provided by Hexagon (“Feedback”), then, Hexagon and its Affiliates may use such Feedback without obligation to Customer, and Customer hereby irrevocably grants to Hexagon and its Affiliates a perpetual, irrevocable, worldwide, sublicensable, royalty-free right and license to use such Feedback.

8.2 **Data Protection.** Hexagon and its Affiliates may use, disclose, store, transmit and otherwise dispose of information, including personally identifiable information, disclosed by Customer, to Hexagon Affiliates, and suppliers, channel partners and subcontractors, wherever they do business, in furtherance of the Contract and Hexagon’s business relationship with the Customer. If Customer provides Hexagon or Hexagon Affiliates with feedback, recommendations, or suggestions about goods or services provided by Hexagon (“Feedback”), then, Hexagon and its Affiliates may use such Feedback without obligation to Customer, and Customer hereby irrevocably grants to Hexagon and its Affiliates a perpetual, irrevocable, worldwide, sublicensable, royalty-free right and license to use such Feedback.

8.3 **Data Backup.** It is the Customer’s responsibility to backup data on Customer’s systems and computers. Hexagon is not responsible for loss, corruption, recovery, storage or backup of data.

8.4 **Cooperation.** Customer will cooperate fully and in good faith with Hexagon in the performance of Services by, without limitation, providing or obtaining for Hexagon, in a timely manner and at no charge to Hexagon: (a) such access and use of Customer’s premises or other facilities as reasonably required for Hexagon to perform the Services, if on-site performance of Services is agreed to; (b) such access and use of Customer’s systems, equipment, software, drawings, models, parts, data, information or tools (“Customer Materials”) reasonably required for Hexagon to perform the Services; (c) complete, accurate and timely information, data and feedback as reasonably required to perform the Services; (d) all required licenses and consents to comply with all applicable law in relation to the Services to the extent that such licenses and consents relate to Customer’s business, premises, staff and/or Customer Materials; (e) complete information related to any restrictions on technical data, including export restrictions, that may impact Hexagon’s selection of personnel to perform the Services; and (f) any Customer deliverables and other obligations required for the performance of the Services. Hexagon’s performance obligations are contingent upon Customer’s compliance with Customer’s obligations. Hexagon shall not be responsible for failures or delays in performing Services due to Customer’s delays or failure to comply with Customer’s obligations. Customer acknowledges and agrees that, in performing the Services, Hexagon is entitled to base its conclusions on and rely on the accuracy and completeness of the information, data, material, and assumptions that are furnished by or on behalf of Customer, without any independent investigation or verification. In addition to any other remedies available, Hexagon is entitled to compensation for costs and expenses (such as travel expenses, cancellation and rebooking costs, non-productive labor hours and other personnel costs, and third-party expenses incurred by Hexagon), resulting from delays or re-scheduling caused by Customer.

8.5 **Performance of Services.** Hexagon, in its sole discretion, will determine the personnel assigned to perform the Services, and may provide the Services through Affiliates and/or third-party representatives and subcontractors.

9 **LIMITED WARRANTIES AND DISCLAIMERS.**

9.1 **For Services.** Hexagon warrants to Customer that the Services will be performed in a professional manner consistent with generally accepted industry practice. This warranty shall expire thirty (30) days after the applicable Services completion date or the termination of the Services schedule, whichever occurs first. Hexagon’s sole and exclusive obligation for breach of warranty will be, at Hexagon’s option, to (a) use commercially reasonable efforts to re-perform the Services in a manner that conforms to the warranty, or (b) refund to Customer the fees paid by Customer to Hexagon for the nonconforming Services. The remedies set forth in this paragraph are Customer’s sole and exclusive remedies for breach of warranty under this paragraph.

9.2 **For Parts/Components.** Hexagon warrants to Customer that replacement parts or components, if any, provided under the Contract will be free from defects in workmanship and materials for a period of three (3) months from the date of delivery. The above warranties do not apply to Software. ANY SOFTWARE, UPDATES, OR LICENSE KEYS PROVIDED UNDER THE CONTRACT ARE PROVIDED “AS IS” WITH NO WARRANTY OF ANY KIND.
9.4 Warranties are non-transferable and non-assignable. No warranty claim may be made after the expiration of the warranty period. All parts or components replaced become the property of Hexagon. The foregoing warranty will not apply to or cover: (i) replacement parts or components exported by the Customer out of the ultimate country of destination (as identified in the Contract); or (ii) consumable parts, such as reflectors, bulbs, fuses, batteries, and filters; in either case no warranty is provided.

9.5 HEXAGON MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES AND ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING ANY WARRANTY AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSES, NONINFRINGEMENT, DESIGN OR SUITABILITY, QUALITY OF SERVICE, AS WELL AS ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE. THE REMEDIES DESCRIBED IN THIS SECTION 9 ARE THE EXCLUSIVE REMEDY OF CUSTOMER FOR BREACH OF WARRANTY.

10 LIMITATION OF LIABILITY. NEITHER HEXAGON NOR ITS AFFILIATES OR SUPPLIERS WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES (INCLUDING LOST DATA, SAVINGS, PROFITS OR REVENUES) ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THE SUBSCRIPTIONS, UPDATES, TECHNICAL SUPPORT, SERVICES, PARTS, COMPONENTS, OR OTHER MATERIALS OR DELIVERABLES, OR THE CONTRACT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR CLAIM. UNDER NO CIRCUMSTANCE WILL HEXAGON’S, OR ITS AFFILIATES’, LIABILITY UNDER OR IN CONNECTION WITH THE SUBSCRIPTIONS, UPDATES, TECHNICAL SUPPORT, SERVICES, PARTS, COMPONENTS, OR OTHER MATERIALS OR DELIVERABLES, OR THE CONTRACT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IN THE AGGREGATE, EXCEED THE AMOUNT ACTUALLY RECEIVED BY HEXAGON UNDER THE CONTRACT IN THE TWELVE MONTHS PRECEDING THE CLAIM. NO CLAIM, REGARDLESS OF FORM, ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT MAY BE BROUGHT BY CUSTOMER MORE THAN TWO (2) YEARS AFTER THE EVENT GIVING RISE TO THE CAUSE OF ACTION HAS OCCURRED. TO THE EXTENT ANY APPLICABLE LAW LIMITS THE SCOPE OF THIS SECTION 10, THE CONTRACT SHALL BE INTERPRETED TO CONFORM TO SUCH LAW IN A MANNER THAT LIMITS HEXAGON’S AND ITS AFFILIATES’ LIABILITY TO THE FULLEST EXTENT ALLOWED BY LAW.

11 INDEMNITY. Customer hereby agrees to defend, indemnify and hold Hexagon, Hexagon Affiliates, suppliers, contractors and representatives harmless from and against all claims, demands, suits and causes of action for property damage, personal injury or death, and all loss, cost, damage and expense (including reasonable attorneys’ fees) arising out of Customer’s misconduct, negligence, violation of law or other fault.

12 TRADE COMPLIANCE. Customer shall comply with all applicable export control laws and regulations, and sanctions laws and regulations, including but not limited to those of the United States (collectively, “Export Control Laws”). Customer represents, warrants and covenants that: (i) Customer will not export, re-export, transfer or download any items, Updates, technical data or other deliverables provided under the Contract contrary to the Export Control Laws; (ii) Customer will not use the items, Updates, technical data or other deliverables for purposes prohibited by Export Control Laws; and (iii) Customer is not located in a country that is subject to a U.S. Government embargo (including Cuba, Iran, Syria, North Korea, and the Crimea region). Upon Hexagon’s request, Customer shall promptly cooperate with Hexagon and provide Hexagon with any end-user certificates, affidavits, or other documents reasonably requested by Hexagon in connection with the exporting or importing of any items or technical data under the Contract. Customer will indemnify and hold harmless Hexagon and its Affiliates against any claims, damages or fines relating to Customer’s noncompliance with Export Control Laws.

13 GENERAL.

Entire Agreement. The Contract constitutes the entire agreement between Hexagon and Customer with respect to the subject-matter hereof, and supersedes all prior or contemporaneous agreements or representations, written or oral, with respect to the subject-matter hereof. In the event of a conflict the following order of precedence shall apply with respect to these documents: (i) Hexagon order acknowledgment, (ii) Quote, (iii) Program Overview, (iv) these Terms, and (v) Customer’s purchase order (if any), provided however that any additional or different terms and conditions contained in any Customer purchase order (or other Customer-generated document) shall not be binding on Hexagon, unless separately signed by Hexagon. The Contract may not be amended except in a writing signed by the parties, or as otherwise permitted in the Contract.

13.1 No Waiver. Hexagon shall have the benefit of all rights and remedies provided by law or equity. Failure of Hexagon to exercise or reserve any right or remedy shall not be construed as a waiver thereof or of any other right or remedy.
13.2 **Severability.** If any term within the Contract is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms of the Contract shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

13.3 **Force Majeure.** Hexagon shall not be liable or responsible for delay or failure to perform any obligations under the Contract occasioned by any cause beyond its reasonable control, including but not limited to war; terrorist acts; civil disturbance; epidemics; fire; flood; earthquake; acts or defaults of common carriers; governmental laws, acts, regulations, embargoes or orders; or any other cause, contingency or circumstance not subject to its reasonable control.

13.4 **Assignment.** The Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. Customer may not assign or transfer, by operation of law or otherwise, the Contract (or any rights or obligations hereunder), without Hexagon’s prior written consent. Any attempted assignment or transfer in violation of the foregoing shall be void. Hexagon may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under the Contract without Customer’s consent.

13.5 **Electronic Signatures.** Signed copies of the Quote or other Contract documents transmitted via facsimile transmission, by electronic mail in .pdf or other reliable electronic form, will have the same effect as physical delivery of the paper document bearing the original signature. The parties agree that electronic signatures may be used and shall be treated, for purposes of validity, enforceability as well as admissibility, the same as written signatures.

13.6 **Interpretation.** Ambiguities, inconsistencies, or conflicts in the Contract will not be strictly construed against the drafter of the Contract; rather, they will be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the parties at the time of contracting. The section headings in these Terms are for convenience only and will not be of any effect in constructing the meaning of the sections.

13.7 **Governing Language.** In the event of translation of these Terms to a language other than English, the English language version shall govern in the event of a conflict.

13.8 **Governing Law; Jurisdiction.** The Contract will be governed by and construed in accordance with the laws of the State of Rhode Island, United States of America (USA), unless if Customer acquired the Subscription in Canada the laws of the province of Ontario, Canada shall apply. The laws of such jurisdiction shall govern without reference to the conflicts-of-laws rules thereof. The UN Convention on Contracts for the International Sale of Goods shall not apply. In addition, each party agrees that any claim, action or dispute arising under or relating to the Contract will be brought exclusively in (and the parties will be subject to the exclusive jurisdiction of) the courts of the State of Rhode Island (USA), except that if Customer acquired the Subscription in Canada, any such claim or dispute will be brought exclusively in (and the parties will be subject to the exclusive jurisdiction of) the courts of the Province of Ontario, Canada. Notwithstanding the foregoing or anything to the contrary, Hexagon shall have the right to bring claims, actions or other proceedings against Customer in the courts of any country in which Customer resides, has assets, or in any other court of competent jurisdiction.