HEXAGON METROLOGY, INC. STANDARD TERMS & CONDITIONS OF SALE & SECURITY AGREEMENT

1. OFFER OF SALE. The terms and conditions found on the quotation and those provided below hereby constitute an offer for sale of “Products,” which are identified on a quotation sent by Seller to Buyer. “Seller” means Hexagon Metrology, Inc., or such other entity identified as seller on a quotation. Buyer means the entity as a “bill to” or similar identification on a purchase order, according to section 2 of these standard terms and conditions. “Products” excludes application software, which is licensed according to an End User License Agreement, which may be set forth in Seller’s quotation or at http://www.hexagonmi.com/en-US/about-us/terms-of-sale/terms-of-sale-usa. Unless otherwise provided on the face hereof, offers are available for acceptance for a period of 60 days from the date of this offer. An order by Buyer shall constitute an acceptance of these terms and conditions for sale.

2. PURCHASE ORDERS. Purchase orders may be placed by Buyer in any commercially reasonable manner that Buyer and Seller determine is appropriate, including facsimile or electronic transmission. The purchase order should confirm the specific Products, specifications related thereto, quantity, price, total purchase price, shipping instructions, requested delivery dates, “bill to” and “ship to” addresses, tax exempt certifications, if applicable, and any other special instructions or requirements. The purchase order is not binding upon Seller until Seller gives express written acceptance of such contingencies. All purchase orders are subject to acceptance by Seller. Seller reserves the right to correct clerical errors in any quotation or Purchaser Order referencing a quotation containing such errors. The Purchase Order, quotation, and these Terms shall constitute the contract between the parties for the purchase of Products and/or services identified in the Purchase Order.

3. PRICE, TAXES AND OTHER CHARGES. All prices are in US dollars. Sales Tax will be charged on all products if a tax exemption certificate is not submitted with the purchase order. In addition to payment of the price of the Products, the Buyer agrees to pay Seller, either as included on the original invoice for the Products or as may be subsequently invoiced, for use, excise or any other taxes or assessments paid or required to be paid by Seller with respect to the order. Buyer is entitled to retain any export duty drawbacks if Seller is the exporter of record.

4. RISK OF LOSS, INSURANCE AND GRANT OF SECURITY INTEREST TO SELLER. a) Risk of loss or damage and insurance responsibilities pass to Buyer upon delivery to carrier. Although risk of loss or damage passes, title to all software and firmware shall remain with Seller or its licensors. b) Buyer hereby grants and Seller retains a security interest in the Products until payment, in full, has been received by Seller for such Products delivered and services performed. Buyer grants Seller the right to perfect its security interest by filing a UCC Financing Statement or by other filings, registrations or notices as may be required in Seller’s sole discretion.

5. SHIPMENT AND DELIVERY. a) Unless otherwise indicated on Seller’s quotation, shipments are FCA Seller’s factory or premises as indicated in the quotation. FCA is in accordance with International Chamber of Commerce Incoterms 2010. In the absence of specific instructions from Buyer, Seller may select the carrier and shipping route. Seller will invoice buyer for applicable freight and handling charges. b) In the absence of express written agreement to a specific delivery date, delivery schedule and delivery dates are as determined by the lead time in Seller’s quotation, the date of Seller’s acknowledgment of Buyer’s Purchaser Order, the receipt of the down payment and the information and approvals necessary to proceed with design and manufacture. Delivery extension in response to a Buyer request will be subject to a 1 1/2% per month delivery extension surcharge. c) If installation is included in the quotation or Purchase Order, Seller shall be obligated only to provide such equipment as is specified in the quotation. Buyer is responsible for preparing the site for installation according to Seller’s instructions, including, among other things, providing electric power hookup, air supply, if required, or other special equipment as instructed by Seller. Buyer shall pay Seller any costs resulting from Buyer being unprepared on the agreed date for installation of the Products, including, without limitation, the delivery extension surcharge for a minimum of one month or, if greater, the cost of storage of the Products, cancelation fees to installation contractors, if any, or time lost by installation technicians.

6. CANCELLATION AND RETURN. a) Cancellations for standard Products customarily kept in inventory can be made only by written request, followed by our written consent and upon terms that will indemnify us against loss. Cancellations for standard products may, in Seller’s sole discretion, be accepted with no charge up to thirty (30) days before scheduled shipping date. For cancellations made and accepted within thirty (30) days of the scheduled shipping date, Buyer agrees to pay liquidated damages of 20% of contract price for cancellation of a contract for standard Products, if such cancellation is accepted by Seller in accordance with this paragraph. b) Under no circumstances may Buyer cancel an order after shipment. c) The Buyer may not cancel delivery for integrated systems, non-standard products and other materials not customarily carried in stock by Seller, or for quantities in excess of the quantity that Seller customarily carries in stock. Liquidated damages for breach of this provision shall be in the form of monetary compensation for performance completed to date equal to costs incurred to date plus a reasonable profit at prevailing quotations for raw material and labor incurred from contract inception, 10% if cancelation occurs within two to four months from contract inception and 12% if cancelation occurs after four months from contract inception. All partially completed work, shall, upon payment by the Buyer, become the property of the Buyer and will be shipped to the Buyer in an “as is” condition, FCA Seller’s factory or premises.

c) Returnable goods must be authorized by Seller. If the return is accepted and authorized by Seller, return Product is subject to a 10% restocking fee unless the Product is deemed by Seller to be defective in material and/or workmanship. Additional fees may be imposed, at Seller’s option, for any merchandise returned damaged, incomplete or not in the original packaging. All refunds will be made in the form of a return credit. Special order, custom or nonstandard assembled products are non-returnable.

7. PAYMENT TERMS. a) Payment Requirements for U.S.A., Canada and Mexico. All Payments must be made in U.S. dollars by check, wire transfer or credit card. For standard product orders less than US$50,000, upon approved credit, terms are net 30 days from date of invoice. For standard product orders greater than US$50,000, upon approved credit, terms are 30% down payment, 70% net 30 days from date of invoice. For non-standard products, upon approved credit, terms are 40% down payment, 55% upon receipt at Buyer’s site, and 5% upon final acceptance at Buyer’s site. Different payment terms set out in a quotation or proposal prepared by Seller shall control over the terms set forth in this Section 7 of these Standard Terms and Conditions, in the event of any conflict.

b) Payment Requirements for All Other Countries. Payment for all Products or services must be made by credit card, wire transfer or an irrevocable letter of credit (“LC”) instructing a U.S. bank. Letters of Credit must: i) cover the full amount of the purchase price; ii) accompany the order and carry an expiration date at least ninety (90) days beyond the scheduled shipping date; and iii) allow partial draws upon invoice in accordance with the Payment Terms of this section 7, and be otherwise payable upon presentation of bill of lading, commercial invoice, and packing list, or, if Seller is unable to ship for any cause beyond Seller’s reasonable control, upon presentation of a certificate of manufacture.

c) Past-due accounts will be charged interest at the rate of 1 ½ % per month (or the maximum amount permitted by applicable law, if less) on the amount due until fully paid.

d) If installation of standard Products is delayed at Buyer request, full payment (including installation charges, if any) is due thirty (30) days from date Product is shipped or ready to ship, notwithstanding any other provision in these Terms & Conditions to the contrary.

e) Payment shall not be contingent on delivery or performance except as expressly provided in this Section 7, and, notwithstanding any provision to the contrary in these Terms & Conditions, shall not be contingent on the delivery or acceptance of custom software.
purchased from Seller or any third party under a separate contract or agreement, including application part programming, special functions, or communications modules.

f) Approved credit may be revoked at any time.

g) Seller reserves the right to suspend manufacture and delivery upon failure of Buyer to make payments when due, which suspension shall not relieve Buyer's obligation to pay.

h) Buyer shall schedule installation, training or part programming services sold with the Product to take place within 12 months from the date of shipment.

i) Credit card payments are subject to a 3% premium.

j) Refer to Seller's quotation and invoice for other specific payment instructions.

8. WARRANTY. a) Seller will replace or repair, at Seller's option, free of charge, any part or parts, which upon examination Seller finds defective in workmanship or material, provided that, on Seller's request, the part or parts of the machine are returned to Seller's plant or premises, and provided further, that there is satisfactory documentation that the Product has been installed, used and maintained in accordance with instructions in the service and/or user manual. The foregoing product warranty will not apply to or cover goods exported by the Buyer out of the USA or Canada. Seller shall not be liable or responsible for any expense or liability resulting from repairs, additions or modifications made upon the product without Seller's written consent.

b) Seller warrants service parts and accessories for ninety (90) days from date of shipment. Service warrants service labor for thirty (30) days from date of completion of sale.

c) APPLICATION SERVICES, TRAINING, PART PROGRAMMING AND OTHER SERVICES CARRY NO WARRANTY, EXPRESS OR IMPLIED.

d) For all Products not installed by Seller, the warranty period is 12 months from date of delivery. The warranty period for Products installed by Seller for Product installed in the USA, Canada and Mexico is twelve (12) months from the date of installation, not to exceed thirteen (13) months from date of shipment. For all other countries where Seller performs the installation of the products, Seller’s warranty is effective for 18 months from the date of shipment. Warranties are non-transferable and non-assignable. No warranty claim may be made after the expiration of the warranty period.

e) The sole remedy for breach of warranty is repair or replacement of the any defective part or parts within the warranty period.

SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES AND ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR PARTICULAR OR SPECIAL PURPOSES.

9. LIMIT OF LIABILITY

SELLER AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY LOSS OF DATA OR DOWNTIME OR LOST PRODUCTION, REVENUE OR PROFIT, OR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES WITH RESPECT TO THE PURCHASE, SALE, USE OR NON-USE OF PRODUCTS, CAUSED BY DEFECTIVE MATERIAL OR UNSATISFACTORY PERFORMANCE OF PRODUCTS OR SERVICES, WHETHER SUCH LIABILITY IS BASED UPON CONTRACT (INCLUDING BREACH OF A REPRESENTATION OR WARRANTY), TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE.

SEVERAL LEGAL THEORY WHATSOEVER, EVEN IF SELLER HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF ANY WARRANTY OR REMEDY IS HELD TO HAVE FAILED IN ITS ESSENTIAL PURPOSE. THE SELLER'S TOTAL LIABILITY TO BUYER IN RESPECT OF ALL OTHER LOSSES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL IN NO CIRCUMSTANCES EXCEED THE COST OF PRODUCTS DELIVERED OR SOLD BY SELLER IN THE TWELVE MONTHS PREVIOUS TO ANY CLAIM OR LOSS BEING FIRST MADE.

Nothing in this agreement or any terms and conditions of sale between the parties shall limit or exclude the Seller's liability for death or personal injury caused by Seller's negligence, or the negligence of its employees, agents or subcontractors (as applicable), fraud or fraudulent misrepresentation, or any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

10. OCCUPATIONAL SAFETY AND HEALTH. It is Buyer's or the user's responsibility to prepare for install and use any Product in a safe manner in its facility and to provide all proper devices, tools and means to protect all personnel from bodily injury that may result from Buyer's performance of, operation, set-up or service of Products. Buyer is advised to consult the operator, machine and programming manuals, ANSI Safety Standards and state and federal OSHA regulations. Buyer shall install and use the products at all times in compliance with the foregoing manuals, safety standards, applicable codes, ordinances, regulations and laws and general standards of care.

11. PRODUCT ACCEPTANCE. Machine acceptance tests are agreed to only by express written agreement of the Parties. In any event, Products are deemed accepted no later than first commercial use.

12. GOVERNMENT RESTRICTIONS. Seller's performance under any contract is subject to the issuance of any required export license or other necessary government authorization. Seller has the right to terminate without liability any order or contract if Seller determines such sale, export or delivery violates applicable law. Termination will not affect the right of Seller to recover the contract price for any unpaid Product already delivered. Buyer shall not export or re-export any Product in violation of applicable law and it is understood that machinery, equipment, documentation and software, if any, including technical data, may not be exported or re-exported in violation of the U.S. Export Administration Act, its implementing laws and regulations, the laws and regulations of other U.S. agencies or the export and import laws of the jurisdiction in which this machinery, equipment, documentation, software, if any, including technical data was obtained. Export to or from any individual, entity, or country specifically designated by applicable law is strictly prohibited.

13. HARMLESS / INDEMNITY. Buyer hereby releases and agrees to defend, indemnify and hold Seller harmless from and against all claims, demands, suits and causes of action ("liability") for property damage, personal injury or death, and all loss, cost, damage and expenses (including reasonable attorney's fees) relating to the Product arising out of: i) Buyer's modification to, or change of the Product or software or firmware as originally delivered; ii) Buyer's failure to purchase, install, provide or implement any safety part or practice customary in the industry (including, but not limited to, a mechanical, electrical or software interlock or other safety device); or iii) Buyer's negligence, violation of law or other fault.

14. INTELLECTUAL PROPERTY. OWNERSHIP. Buyer acknowledges that Seller owns (as between Seller and Buyer) and will retain all ownership in the intellectual property relating to the Product, including, without limitation, copyright, trademark, trade secret, know-how, database, design and patent rights, and all tangible and intangible components thereof, and any improvements, modifications, design contributions or derivative works thereto or thereof conceived or otherwise obtained by Seller, its contractors, or otherwise. Buyer will defend, indemnify and hold Seller harmless from and against all liability for breach of warranty, infringement of Seller Intellectual Property, or violation of the Agreement, whether by operation of law, contract, tort, negligence, or otherwise.

APPENDIX A

g) Seller reserves the right to suspend manufacture and delivery upon failure of Buyer to make payments when due, which suspension shall not relieve Buyer's obligation to pay.

h) Buyer shall schedule installation, training or part programming services sold with the Product to take place within 12 months from the date of shipment.

i) Credit card payments are subject to a 3% premium.

j) Refer to Seller's quotation and invoice for other specific payment instructions.

8. WARRANTY. a) Seller will replace or repair, at Seller's option, free of charge, any part or parts, which upon examination Seller finds defective in workmanship or material, provided that, on Seller's request, the part or parts of the machine are returned to Seller's plant or premises, and provided further, that there is satisfactory documentation that the Product has been installed, used and maintained in accordance with instructions in the service and/or user manual. The foregoing product warranty will not apply to or cover goods exported by the Buyer out of the USA or Canada. Seller shall not be liable or responsible for any expense or liability resulting from repairs, additions or modifications made upon the product without Seller's written consent.

b) Seller warrants service parts and accessories for ninety (90) days from date of shipment. Service warrants service labor for thirty (30) days from date of completion of sale.

c) APPLICATION SERVICES, TRAINING, PART PROGRAMMING AND OTHER SERVICES CARRY NO WARRANTY, EXPRESS OR IMPLIED.

d) For all Products not installed by Seller, the warranty period is 12 months from date of delivery. The warranty period for Products installed by Seller for Product installed in the USA, Canada and Mexico is twelve (12) months from the date of installation, not to exceed thirteen (13) months from date of shipment. For all other countries where Seller performs the installation of the products, Seller’s warranty is effective for 18 months from the date of shipment. Warranties are non-transferable and non-assignable. No warranty claim may be made after the expiration of the warranty period.

e) The sole remedy for breach of warranty is repair or replacement of the any defective part or parts within the warranty period.

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SEVERAL LEGAL THEORY WHATSOEVER, EVEN IF SELLER HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF ANY WARRANTY OR REMEDY IS HELD TO HAVE FAILED IN ITS ESSENTIAL PURPOSE. THE SELLER'S TOTAL LIABILITY TO BUYER IN RESPECT OF ALL OTHER LOSSES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL IN NO CIRCUMSTANCES EXCEED THE COST OF PRODUCTS DELIVERED OR SOLD BY SELLER IN THE TWELVE MONTHS PREVIOUS TO ANY CLAIM OR LOSS BEING FIRST MADE.

Nothing in this agreement or any terms and conditions of sale between the parties shall limit or exclude the Seller's liability for death or personal injury caused by Seller’s negligence, or the negligence of its employees, agents or subcontractors (as applicable), fraud or fraudulent misrepresentation, or any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.
Agreement or like agreement shall control where and to the extent such agreement is inconsistent with these Terms & Conditions.

15. SEVERABILITY. If any of these Terms & Conditions or any provision of the contract between Seller and Buyer is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions (or part thereof) shall remain in full force and effect.

16. NO WAIVER. Seller shall have the benefit of all rights and remedies provided by law or equity. Failure of Seller to exercise or reserve any right or remedy shall not be construed as a waiver thereof or of any other right or remedy.

17. FORCE MAJEURE. Neither party shall be responsible for delays or failure in performance of this Agreement (other than failure to pay any amounts due) to the extent that such party was hindered in its performance by any act of God, civil commotion, labor dispute, unavailability or shortages of materials or any other occurrence beyond its reasonable control.

18. GOVERNING LAWS. Any contract arising out of the placing of an order by the Buyer and the acceptance by Seller shall be governed by the Laws of the State of Rhode Island.

19. GOVERNING LANGUAGE. In the event of translation of these terms and conditions to a language other than English, the English language shall govern.