

HxGN SFX
Cloud Services Agreement

This HxGN SFX Cloud Services Agreement is entered into by and between the Hexagon Group Entity (“**Hexagon**”) and **Customer** identified in the Order Form.

1. DEFINITIONS

- 1.1. “**Account**” means one or more web-based accounts enabling access and use of Services provided on the Platform.
- 1.2. “**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.
- 1.3. “**Agreement**” means this HxGN SFX Cloud Services Agreement, together with the Order Form, and any Supplemental Terms and/or other addenda or attachments specifically made a part of this Agreement or the Order Form.
- 1.4. “**Customer Data**” means electronic data or information entered, uploaded onto or stored on the Platform by Customer or its Users in connection with use of Services under Customer’s Account. Customer Data excludes the Services, Platform, or Materials. Customer Data also excludes **Aggregate Data** defined in Section 6.3 below.
- 1.5. “**Country-Specific Terms**” are referenced in Section 15 of this Cloud Services Agreement, and are set forth in a separate Country-Specific Terms document available at the HxGN SFX Website.
- 1.6. “**Free Services**” means any Services or features made available to Customer free of charge, such as free of charge beta, pre-release, evaluation, trial, or preview designated Services or features.
- 1.7. “**Hexagon Group**” means Hexagon AB, a Swedish corporation, and any legal entity that is directly or indirectly controlled by Hexagon AB. “**Hexagon Group Entity**” or “**member of the Hexagon Group**” means any legal entity that is directly or indirectly controlled by Hexagon AB. The Hexagon Group Entity entering into the Order Form and this Agreement will be identified in the applicable Order Form.
- 1.8. “**HxGN SFX Website**” means the current HxGN SFX website at <https://www.hexagonsfx.com> or any other successor website designated by Hexagon. As of the date of this Version of the Cloud Services Agreement, the Agreement and related terms and policies are posted at <https://www.hexagonsfx.com/legal>.
- 1.9. “**Materials**” means any software, code, scripts, application programming interface, technology, user documentation, release notes, online help files and tutorials, and other content, data, written materials and information (and any updates thereto) made available by or on behalf of Hexagon or its Affiliates in connection with the provision of Services.
- 1.10. “**Order Form**” means a Hexagon proposal, order form, online form, or other ordering document mutually agreed to by Hexagon and Customer, setting forth the Service(s) ordered by Customer. Order Forms also include any authorizations (including electronic forms or enrollments) under which Hexagon authorizes Customer to access and use Free Services.
- 1.11. “**Offering-Specific Terms**” are a set of supplemental terms applicable to a specific Services offering, such as Services descriptions and definitions, usage metrics, storage limitations, and other terms relating to a specific Services offering.
- 1.12. “**Parties**” means Hexagon and Customer, and “**Party**” means either of them individually.
- 1.13. “**Platform**” means the proprietary cloud-based HxGN SFX platform (or successor platform) through which the Services are offered by members of the Hexagon Group.
- 1.14. “**Reseller**” means an unaffiliated third party reseller authorized by Hexagon to market and/or support the Services.
- 1.15. “**Services**” means the cloud services ordered under the applicable Order Form. Services shall include related Materials made generally available by Hexagon and/or its Affiliates to customers using those Services.
- 1.16. “**Subscription Term**” means a period for which a Services subscription is agreed upon, as set forth in the applicable Order Form.
- 1.17. “**Supplemental Terms**” means additional terms, including without limitation, Offering-Specific Terms, Country-Specific Terms, and other HxGN SFX addenda and/or policies as may be incorporated (by reference or otherwise) into the applicable Order Form or this Agreement.
- 1.18. “**Third Party Service Providers**” means third party contractors or subcontractors used by a member of the Hexagon Group to provide services under this Agreement.
- 1.19. “**Users**” means individuals who have access to use the Services on behalf of Customer or Customer’s Affiliates.
- 1.20. Additional defined terms shall have the meaning as set forth in this Agreement.

2. CLOUD SERVICES

- 2.1. Subject to the terms and conditions of this Agreement, Hexagon grants to Customer during the Subscription Term a non-transferable, non-sublicensable, time-limited right to access and use the Service(s) authorized under the applicable Order Form, solely for Customer's own internal business purposes, provided such internal business purposes shall not include commercial time-sharing, rental, outsourcing, service bureau or similar use.
- 2.2. Customer may access Services only to the extent agreed to in the applicable Order Form. Services are subject to usage limits and other limitations as specified or described herein and in the applicable Order Form and Supplemental Terms.
- 2.3. Users may not share User IDs or passwords. User accounts may not be re-assigned unless authorized by Hexagon.
- 2.4. Customer is responsible for all activities that occur under Customer's Account, and for any use of the Platform or Services by any User. Customer shall have sole responsibility for the accuracy, quality, integrity, reliability and appropriateness of all Customer Data. Customer shall use best commercial efforts to prevent unauthorized access to or use of Services, including preventing utilization of more access, credentials or licenses than authorized by the Order Forms.
- 2.5. Customer shall provide and maintain, and Hexagon shall have no responsibility for, Customer's own equipment, third party software, networks, internet access, communications lines, and other resources necessary to interoperate with the Platform and Services. Third Party IoT hardware devices and connectivity software are not part of the Services. It is Customer's responsibility to procure and maintain appropriate licenses for third party IoT hardware devices and connectivity software. Customer is solely responsible for the operation of third party IoT hardware devices and connectivity software.
- 2.6. Customer shall ensure all its Users comply with the terms of Hexagon's then-current **Acceptable Use Policy (AUP)** for the Platform; such terms are incorporated into this Agreement. The AUP is available for review and download at the HxGN SFX Website. A User may be prompted with review and acceptance of the AUP to gain access to the Services. Hexagon reserves the right to change the AUP at any time. Any update to the AUP may require each User to re-accept the modified AUP. Failure to comply with the AUP may result in suspension of the Services or termination of this Agreement for material breach.
- 2.7. Except as expressly permitted in this Agreement, Customer shall not (nor permit Users to): (i) sell, license, rent, lease, outsource, disclose, distribute, transfer, assign, or otherwise make available to any third party the Services, Materials, or any rights granted in this Agreement; (ii) copy, reproduce, modify, translate, publicly display or make derivative works of the Services or any Materials; (iii) access or use the Services or the Materials to build or provide a similar or competitive offering, product or service; (iv) attempt to remove, defeat or circumvent any license manager, technology, or protections that prevent or limit the unauthorized access, use or copying of the Services or the Materials; or (v) otherwise access, use or copy the Services or the Materials. Customer agrees to use best commercial efforts to prevent unauthorized third parties from accessing the Services or Materials. Customer shall immediately notify Hexagon should Customer become aware of any violation of its obligations under this Agreement. Hexagon and its Affiliates, and their representatives may, but have no obligation to, monitor Customer's usage of the Services to verify compliance with this Agreement.
- 2.8. Customer shall not, nor permit others to, decompile, disassemble or otherwise reverse engineer the Services or Materials, or determine or attempt to determine any source code, algorithms, methods, or techniques used or embodied in the Services or Materials.
- 2.9. Services may require use of enabling software utilities (e.g., the *HxGN SFX Connector*TM) that Customer downloads on its systems to facilitate access or use of the Services. Any such enabling software shall be governed by the terms and conditions of the applicable license agreement accompanying the enabling software. Enabling software utilities are provided on an as-is basis, with no warranties of any kind.
- 2.10. Hexagon may offer certain Services, or features or functions within Services, made available by unaffiliated third parties ("**Non-Hexagon Services**"). Accessing such Non-Hexagon Services may cause Customer's computers to communicate with a third-party website. Such connectivity or access to third party websites or third party materials is governed by the terms found on such sites, and access to and use of Non-Hexagon Services may require Customer's agreement to separate terms. Linking to or use of Non-Hexagon Services constitutes Customer's agreement with such terms. Members of Hexagon Group are not a party to such third party agreements and are not responsible for such Non-Hexagon Services. Hexagon may at any time, for any reason, modify or discontinue the availability of any Non-Hexagon Services.
- 2.11. Customer acknowledges that Hexagon has Affiliates and Third Party Service Providers worldwide. Customer acknowledges and agrees that Hexagon and Hexagon Affiliates may use Hexagon Affiliates and Third Party Service Providers to provide the services to Customer.
- 2.12. Services are subject to additional Supplemental Terms incorporated, by reference or otherwise, into the applicable Order Form or this Agreement. HxGN SFX's then-current Offering-Specific Terms available on the HxGN SFX Website at the time of the order shall automatically be deemed incorporated in and become part of an Order Form to the extent Customer orders the Services that is the subject of those Offering-Specific Terms. For example, "Offering-Specific Terms – Asset Management" are a set of terms applicable to the HxGN SFX "Asset Management" Services offering, and this set of terms shall be deemed automatically incorporated into and become part of any Order Form where Customer orders a subscription of the Asset Management Services.
- 2.13. Technical Support. Unless otherwise agreed, where Customer purchases subscription(s) to the Services, Hexagon will, during the Subscription Term, provide Customer with standard technical support for the purchased subscription(s), in accordance with the HxGN SFX then-current technical support policies. Free Services subscriptions do not entitle Customer to technical support. Premium technical support, if offered, shall be subject to an additional charge.

3. TERM, TERMINATION AND SUSPENSION

- 3.1. The term of each Service (“Subscription Term”) will be as specified in the applicable Order Form. During a Subscription Term, the Service may not be terminated for convenience, except that Hexagon may at any time terminate for convenience any Free Services.
- 3.2. Auto-renewals. Where the Order Form specifies “auto-renewal” for Services subscriptions, such purchased Subscriptions will automatically renew for additional annual terms, unless either Party provides the other with notice of non-renewal at least 30 days prior to the upcoming renewal date. Auto-renewals will be at the then-current Hexagon list price, unless otherwise agreed by the Parties in writing. Hexagon may co-term multiple subscriptions ordered by the Customer to align subscription renewal dates. Free Services are not subject to auto-renewal.
- 3.3. Either party may terminate a Service (and thereby a Subscription Term) for breach: (i) in case of the other Party’s material breach, if such breach remains uncured for a period of thirty (30) days after written notice of the breach; or (ii) in the event the other Party ceases doing business, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy, is adjudicated a bankrupt or an insolvent, or files a petition seeking reorganization, liquidation, dissolution or similar arrangement, with immediate effect on the date of notice.
- 3.4. For avoidance of doubt, non-payment or late payment of applicable fees shall be considered a material breach by Customer. In addition to all other remedies, Hexagon may cause a suspension of Services to Customer until all outstanding fees have been paid.
- 3.5. Termination shall not relieve the Customer of the obligation to pay any fees accrued or payable to Hexagon. In the event of termination of a Service for Customer’s Material breach under Section 3.3, all fees due under this Agreement for such Services shall become immediately due and payable Unless otherwise agreed to in writing by Hexagon, in the event Hexagon terminates this Agreement due to any of the conditions set forth in Section 3, then under no circumstances whatsoever shall Customer be entitled to any refund of fees paid.

4. FEES, PAYMENT AND TAXES

- 4.1. The terms in this Section 4.1 apply when Customer orders directly from Hexagon: Customer shall pay in full all fees payable under this Agreement, including all fees under any and all Order Forms. All fees will be due and payable in the currency identified in the applicable Order Forms, and if no currency is identified, then in the currency quoted and/or invoiced by Hexagon. Fees are due and payable as set forth in the Order Forms, and if no payment due date is set forth in the applicable Order Forms, all fees are due and payable thirty (30) days from the invoice date. Any amount not paid when due will bear interest until paid at the rate of 1½% 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 this Agreement and any Order Forms are non-cancelable and the sums paid non-refundable.
- 4.2. The terms in this Section 4.2 apply when Customer orders from a Reseller: Customer pricing, payment and payment terms shall be as separately agreed upon between Customer and Reseller. Resellers who market the Services are independent from Hexagon, and Hexagon is not responsible for their acts, omissions or representations.
- 4.3. Fees are exclusive of all applicable sales, use, value added, GST, 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 this Agreement or the provision of Services hereunder. The total invoice amount for fees is subject to increase by the amount of any taxes which Hexagon is required to pay and/or which Customer is required to withhold, collect or pay upon the fees so that Hexagon receives the full amount of the fees invoiced. If Customer is claiming tax exemption status, Customer must provide a copy of a valid tax exemption certificate.

5. FREE SERVICES

- 5.1 Notwithstanding anything to the contrary in this Agreement: (i) Free Services are provided on an “as is” basis, without warranties, commitments, or obligations of any kind; (ii) Hexagon may at any time and without notice, and in its sole discretion, modify Free Services, or discontinue Customer’s access to and use of Free Services; (iii) Customer Data may be deleted upon the expiration or discontinuation of Free Services; (iv) Unless otherwise expressly permitted otherwise by Hexagon, Free Services may only be used for the purpose of evaluating the Service; (v) Hexagon is not obligated to make Free Services generally available; and (vi) Hexagon, its Affiliates, their suppliers and Third Party Service Providers shall have no liability for claims, damages or indemnities arising out of or related to Customer’s use or non-use of Free Services.

6. OWNERSHIP AND INTELLECTUAL PROPERTY

- 6.1. Customer, for itself and its Affiliates, acknowledges and agrees that Hexagon (and its suppliers, as applicable) shall own all right, title and interest in and to all intellectual property rights in the Services and Materials, and any suggestions, enhancement requests, feedback, or recommendations provided by Customer or its Users relating to the Service or the Materials, including all unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, know-how and other trade secret rights, and all other intellectual property rights, derivatives or improvements thereof. Customer does not acquire any rights in the Platform, Service or Materials, express or implied, other than those usage rights expressly granted in this

Agreement and all rights not expressly granted to Customer are reserved by Hexagon (and its suppliers, as applicable). This Agreement is not a sale and does not convey any rights of ownership in or related to the Platform, Service or Materials to Customer.

- 6.2. Customer Data belongs to Customer. Hexagon, its Affiliates, and their suppliers and Third Party Service Providers may access, use, store, transmit, and otherwise process, Customer Data for the purpose of providing and managing the Services.
- 6.3. Customer further grants Hexagon and its Affiliates a non-exclusive, royalty-free, worldwide, sub-licenseable, transferrable, worldwide right and license to transmit, collect, store, copy, access and use Customer's systems data to: (i) create aggregate and/or de-identified information from Customer's system data; and (ii) combine such aggregate and/or de-identified information with that of others ("**Aggregate Data**"). Customer, on behalf of itself and its Affiliates, acknowledges and agrees that Hexagon and Hexagon Affiliates have the exclusive ownership of any Aggregate Data and the exclusive right to use Aggregate Data for any lawful purpose (including without limitation improvement of product and service offerings, statistical analysis, research and development) as long as the Aggregate Data is not made available in a way which identifies Customer or its Users. Further, Hexagon and its Affiliates may collect other aggregated statistical data regarding Customer or its Users use of the Services and provide such aggregated statistical data to third parties.

7. CONFIDENTIALITY

- 7.1. "**Confidential Information**" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's Confidential Information includes Customer Data. Hexagon's Confidential Information includes the Services, Materials, the terms of this Agreement and Order Forms (including pricing). Confidential Information shall, however, not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.
- 7.2. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, but in no event less than reasonable care, to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors (and additionally in the case of Hexagon, its and its Affiliates' suppliers, Resellers and Third Party Service Providers) who need that access for purposes consistent with this Agreement and who are under confidentiality obligations with the Receiving Party not materially less protective than those herein.
- 7.3. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

8. DATA SECURITY AND PROTECTION

- 8.1. Administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data on the Platform will be as described in the Materials, including the then-current **HxGN SFX Security Policy** made available on the HxGN SFX Website.
- 8.2. Customer personal data received or collected by Hexagon in the performance of its obligations under this Agreement will be processed in accordance with the applicable Hexagon **Privacy Policy** referenced available on the HxGN SFX Website. Customer acknowledges that Hexagon is part of a global enterprise and that personal data may be processed outside Customer's country.
- 8.3. Additionally, to the extent Customer Data includes "Personal Data" and Hexagon acts as a "Processor" as these terms are defined in the below Data Processing Addendum, then Hexagon the terms of the Data Processing Addendum for HxGN SFX Cloud Services (the "**Data Processing Addendum**") shall apply. The version of the Data Processing Agreement applicable to Customer's order (a) is available for review and printing on the HxGN SFX Website, and (b) will remain in force during the Subscription Term of Customer's order.
- 8.4. Customer shall comply with all applicable data protection laws and regulations governing the protection of personal data in relation to its performance under this Agreement. Customer shall secure and maintain all necessary consents and make all necessary disclosures before including personal data in Customer Data, or otherwise providing personal data to Hexagon or its Affiliates in connection with this Agreement and the Services. Customer shall be responsible for any security vulnerabilities and consequences thereof resulting from Customer Data, including any harmful code introduced by Customer's Users or contained in the Customer Data. Customer may not include any sensitive or special data that imposes specific data security or data protection obligations on Hexagon.

9. **SERVICE LEVEL AVAILABILITY.** For purchased Services, Hexagon shall use reasonable commercial efforts to achieve at least a 98% availability of the Services measured monthly, not including "Excused Downtime". For the purposes of this paragraph, "availability" means the ability to connect to Hexagon SFX site, login, query and manage Users. "**Excused Downtime**" means: (i) planned maintenance; (ii) failure of the external internet beyond Hexagon's network; (iii) electrical or internet access disruptions; (iv) any actions or inactions of Customer in violation of this Agreement; (v) attacks (i.e. hacks, denial of service attacks, malicious introduction of viruses and disabling devices) caused by third parties unless Hexagon fails to use industry standard practices to prevent such attacks; or (vi) any event occasioned by causes beyond Hexagon's reasonable control,

including those set forth or described in Section 14.5 of this Agreement. This paragraph shall not apply to Free Services; no service level commitments are made by Hexagon with respect to the Free Services.

10. WARRANTIES, DISCLAIMER

- 10.1. Hexagon warrants to Customer during the Subscription Term that the Services will comply with the material functionality described in the Materials. Customer's sole and exclusive remedy for Hexagon's breach of this warranty shall be that Hexagon shall use commercially reasonable efforts to correct such errors or modify the Services to achieve the material functionality described in the Materials within a reasonable period of time. However, Hexagon shall have no obligation with respect to this warranty claim unless notified of such claim within (30) days of the first material functionality problem. Further, Hexagon shall have no obligation with respect to this warranty claim, and Customer may not terminate the Agreement, where any alleged nonconformity is due to User error as reasonably determined by the Parties after investigation and analysis by Hexagon. Hexagon does not warrant that the Services will be free of errors, bugs, or interruption, or that all such errors will be corrected.
- 10.2. EXCEPT AS OTHERWISE STATED IN SECTION 10.1 ABOVE, HEXAGON DOES NOT REPRESENT THAT CUSTOMER'S USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR FREE, OR THAT THE SERVICES WILL MEET CUSTOMER REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICES AND/OR MATERIALS WILL BE CORRECTED OR THAT THE PLATFORM OR SERVICES WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THE SERVICES WILL OPERATE IN COMBINATION WITH OTHER HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY HEXAGON OR THE OPERATION OF THE SERVICES WILL BE SECURE OR THAT HEXAGON AND ITS AFFILIATES, AND THEIR THIRD PARTY SUPPLIERS AND SERVICE PROVIDERS, WILL BE ABLE TO PREVENT THIRD PARTIES FROM ACCESSING CUSTOMER DATA OR CUSTOMER'S CONFIDENTIAL INFORMATION, OR ANY ERRORS WILL BE CORRECTED OR ANY STORED CUSTOMER DATA WILL BE ACCURATE OR RELIABLE. THE WARRANTIES STATED IN SECTION 10.1 ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY HEXAGON. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS STATED IN SECTION 10.1 ABOVE, THE SERVICES ARE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS, AND IS FOR COMMERCIAL USE ONLY. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE SERVICES OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR THE CUSTOMER'S PURPOSE.

11. LIMITATION OF LIABILITY

- 11.1. IN NO EVENT WILL HEXAGON OR ITS AFFILIATES OR SUPPLIERS OR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES, LOST PROFITS, LOSS OF USE OR PRODUCTION, LOSS OF REVENUE, LOSS OF DATA, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL HEXAGON'S, OR ITS AFFILIATES', LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT, IN THE AGGREGATE, EXCEED THE AMOUNT PAID BY CUSTOMER TO HEXAGON UNDER THIS AGREEMENT WITHIN THE PREVIOUS TWELVE (12) MONTHS FROM THE DATE ON WHICH THE INITIAL EVENT GIVING RISE TO THE CLAIM OCCURRED. NO CLAIM, REGARDLESS OF FORM, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN TWO (2) YEARS AFTER THE EVENT GIVING RISE TO THE CAUSE OF ACTION HAS OCCURRED.
- 11.2. THE EXCLUSIONS AND LIMITATION IN SECTION 11.1 SHALL NOT APPLY IN CASES OF: (I) FRAUD OR FRAUDULENT MISREPRESENTATION; (II) WILLFUL MISCONDUCT AND GROSS NEGLIGENCE; OR (III) BODILY INJURY OR DEATH CAUSED BY HEXAGON. FURTHER, THE EXCLUSIONS AND LIMITATION IN SECTION 11.1 SHALL NOT APPLY TO THE EXTENT THAT LIABILITY CANNOT BE EXCLUDED OR LIMITED ACCORDING TO APPLICABLE LAW, INCLUDING APPLICABLE PRODUCT LIABILITY LAW.

12. EXPORT CONTROL

- 12.1. The Services, Materials, and other technology made available under this Agreement, and derivatives thereof, may be subject to export laws and regulations of the European Union, United States and other jurisdictions. Customer agrees to comply with all applicable laws and regulations, including without limitation, those of the European Union and the United States of America. Customer represents that it, and its Users, are not named on any EU or U.S. government denied-party list (including the U.S. Entity List or Specially Designated Nationals List). Customer shall not permit Users to access or use the Platform, any Services or Materials in a U.S. embargoed country or region (currently Cuba, Iran, North Korea, Sudan, Syria, or Crimea Region) or in violation of any EU, U.S. or other export law or regulation.
- 12.2. Upon Hexagon's request, Customer shall promptly cooperate with Hexagon and provide Hexagon with any end-user certificates, affidavits, or other documents and information reasonably requested by Hexagon in connection with export screening, and the exporting or importing of Services under this Agreement.
- 12.3. Hexagon may suspend performance and Customer's access under this Agreement if, in Hexagon's reasonable opinion, continuation of Services or performance would violate applicable law.

13. INDEMNIFICATION

- 13.1. Hexagon will indemnify, defend and hold harmless Customer from and against all losses, costs, damages, liabilities and expenses (including reasonable legal fees and expenses) Customer incurs as a direct result of any unaffiliated third party claim that the Service infringes any copyright, patent, trademark or trade secret, except to the extent resulting from (i) Customer's modification

of the Services or combination by Customer of the Services with other products or services if the Services would not have been infringing but for such combination or modification; (ii) Customer's use of the Services in a manner not authorized herein or for which it was not designed; (iii) Customer's failure to use an updated non-infringing version of the applicable intellectual property; (iv) changes to the Services made by or on behalf of Hexagon or its representatives at the direction of the Customer; or (v) Customer Data. If any item for which Hexagon has an indemnification obligation under this Section becomes, or in Hexagon's reasonable opinion is likely to become, the subject of an infringement or misappropriation claim or proceeding, Hexagon may, at its sole option and expense: (a) secure the right to continue using the item or (b) replace or modify the item to make it non-infringing. If neither of such actions is commercially feasible, Hexagon will remove the item from the Services and the applicable Services fee will be equitably adjusted to reflect such removal. This Section 13.1 states Customer's sole and exclusive remedy for Hexagon's infringement or misappropriation of intellectual property of a third party.

- 13.2. Customer shall defend and indemnify Hexagon, its Affiliates and third party suppliers and services providers from and against any and all losses, costs, damages, liabilities and expenses (including reasonable legal fees and expenses) incurred by Hexagon, its Affiliates, and/or its third party suppliers and service providers arising out of or in connection with a claim by a third party (i) alleging that the Customer Data, or any use thereof, infringes the rights of, or has caused harm to, a third party, or (ii) arising out of Customer's breach of this Agreement.
- 13.3. The Party seeking indemnification shall give prompt notice of the claim and will tender the defense; provided, however, that such Party's failure to provide notification shall not affect the indemnifying party's indemnification obligations except to the extent that the failure to notify delays or prejudices the indemnifying party's ability to defend the applicable claim. The indemnifying party shall conduct the defense and shall have control of the litigation, and the indemnified party shall cooperate in defending against the claim. The indemnified party shall have the right, at any time and at its own expense, to participate in the defense of the claim with counsel of its own choosing. The indemnifying party shall not make any settlement of the claim that results in any liability or imposes any obligation on the indemnified party without the prior written consent of the indemnified party. If the indemnifying party fails to (i) respond to the notice of a claim, or (ii) assume the defense of a claim, the Party seeking indemnification shall have the right to defend the claim in such manner as it may deem appropriate, at the reasonable cost, expense, and risk of the indemnifying party, and the indemnifying party shall promptly reimburse the indemnified party for all such costs and expenses.

14. MISCELLANEOUS

- 14.1. This Cloud Services Agreement, together with any and all mutually agreed upon Order Form incorporating (by reference or otherwise) this Cloud Services Agreement, and any Supplemental Terms, attachments or addenda to such documents, constitute the complete agreement between Hexagon and Customer with respect to the subject matter hereof, and this Agreement supersedes all prior or contemporaneous agreements or representations, written or oral, with respect to the subject matter. If Customer issues a purchase order or other instrument covering the Services provided under this Agreement, it is expressly agreed that the terms and conditions of this Agreement supersede any different, conflicting or additional terms and conditions in such purchase order or other customer-issued instrument. This Agreement may not be modified except in a writing signed by the authorized representatives of the parties.
- 14.2. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. However, Customer may not assign or transfer, by operation of law or otherwise, this Agreement (or any of the rights or obligations hereunder), without Hexagon's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be void. Hexagon may assign, delegate or otherwise transfer any of its rights or obligations hereunder, in whole or in part, to any third party, without Customer's consent.
- 14.3. If any provision of this Agreement is invalid, the parties agree that such invalidity will not affect the validity of the remaining portions of this Agreement. The parties further agree to substitute a valid provision for the invalid provision which most closely approximates the intent and economic effect of the invalid provision.
- 14.4. Ambiguities, inconsistencies, or conflicts in this Agreement, will not be strictly construed against the drafter of this Agreement; 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 this Agreement are for convenience only and will not be of any effect in constructing the meaning of the Sections.
- 14.5. Except for Customer's payment obligations, neither Party will be held liable or responsible for delay or failure to perform any of such Party's obligations under this Agreement occasioned by any cause beyond its reasonable control, including but not limited to war; terrorist acts; civil disturbance; fire; flood; earthquake; acts or defaults of common carriers; governmental laws, acts, regulations, sanctions, embargoes or orders; or any other cause, contingency or circumstance not subject to such Party's reasonable control. The affected Party will resume full performance of interrupted obligations as soon as practicable upon cessation of intervening causes.
- 14.6. Notices permitted or required under this Agreement shall be in writing and delivered personally (including courier service), by certified or registered mail, return receipt requested, or by confirmed facsimile transmission. Notices shall be effective upon receipt. If notice is sent to Hexagon, it shall be directed to *Attn: Legal Department*.
- 14.7. The Parties are independent contractors. This Agreement shall not create any relationship between Customer and Hexagon as joint ventures, partners, associates, or principal and agent. Neither Party is granted any right of authority and shall not create any obligation or responsibility for or on behalf of the other Party. Neither Party shall have the authority to bind the other Party.

- 14.8. Signed copies of Order Forms and related Hexagon forms transmitted via facsimile transmission, by electronic mail in .pdf form, or by any other electronic means, will have the same effect as physical delivery of the paper document bearing the original signature. Customer expressly consents and agrees that Order Forms and related Hexagon forms may be electronically signed, and that such electronic signatures shall be treated, for purposes of validity, enforceability as well as admissibility, the same as written signatures.
- 14.9. The English language version of this Agreement is legally binding in case of any inconsistencies between the English version and any translations.

15. COUNTRY-SPECIFIC TERMS

For each order, the terms of this Agreement are supplemented and amended by the then-current HxGN SFX **Country-Specific Terms**, available for review and download at the HxGN SFX Website. To the extent the then-current Country-Specific Terms available at the time of the Customer order contain terms applicable to Customer's country, such terms shall supplement and amend this Agreement with respect to that Customer order. Hexagon reserves the right to update its Country-Specific Terms at any time, provided however that any such updates shall not apply to Customer's then-existing Subscription Term (if any). Among other things, Country-Specific Terms set forth terms relating to governing law and jurisdiction for disputes arising out of or relating to this Agreement.

[END OF AGREEMENT]