



Terms & Conditions of Software Sales – GSP Belgium (Luciad NV)

This Agreement (“Agreement”) Constitutes the Terms and Conditions of Sale of Hexagon Product(s) to Buyer.

1. Definitions. As used in this Agreement:

- “**Agreement**” means these Terms and Conditions and each agreement entered into there under;
- “**Buyer**” means the entity or person purchasing all or part of the Software and/or Hardware listed on a Hexagon quotation;
- “**Hardware**” means all Hexagon or Third Party hardware (including components), software media, and spare parts listed on a Hexagon quotation;
- “**Hexagon**” means Luciad NV doing business as Hexagon Geospatial;
- “**Product(s)**” means the Hexagon software licenses or hardware and/or Third Party software licenses or hardware listed on a Hexagon quotation;
- “**Software**” means (i) any binary software program, (ii) any upgrades or updates, and (iii) any related user manuals or other documentation included with the Products or listed separately on a Hexagon quotation;
- “**Terms and Conditions**” means the current standard terms and conditions of purchase and licensing set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between Hexagon and Buyer;
- “**Third Party**” means any other Hexagon Division other than Hexagon Geospatial Division or any company other than Hexagon.

2. General. These Terms and Conditions shall be deemed to be an integral part of all acceptances by Hexagon and shall supersede any conflicting provisions of any purchase order or other communication of the Buyer.

3. Quotations. Hexagon reserves the right to change design, price, and other terms without notice to Buyer and until acceptance of order by Hexagon.

4. Taxes. All Prices contained on a Hexagon quotation are exclusive of, and Buyer shall be liable for and shall indemnify and hold Hexagon harmless from and against each and every country’s federal, state, municipal, or other governmental, withholding, excise, sales, use, value added, GST, or other taxes, tariffs, custom duties and importing fees (“Taxes”). Taxes shall expressly include any related interest and/or penalty. Total invoice amount for any charges pursuant to an accepted quotation are subject to increase by the amount of any Taxes which Hexagon is required to pay and/or which Buyer is required to withhold, collect or pay regarding the transactions pursuant to the Agreement, so that Hexagon receives the full amount of the charges invoiced. Any certificate to exempt any charges from any liability for Taxes or other documentary evidence of statutory exemption shall be obtained by Buyer at Buyer’s expense and provided to Hexagon.

5. Delivery and Installation.

5.1 F.O.B. Point. Hexagon will deliver all Product(s) on an FOB Destination, Pre-Paid and Added (“PPA”) basis, including DDP when shipped from a foreign point of origin, unless otherwise stated. At Hexagon’s discretion, Product(s) may ship from different points of origin. Written notification is required for any short shipments/discrepancies within five days of receipt of order. Hexagon’s responsibility ceases upon delivery of Product(s) to the Buyer in good order at the point of destination. The Buyer is urged to examine all deliveries carefully immediately upon delivery and before signing receipt. If goods are visibly damaged, the Buyer must have written confirmation of the damages noted on the freight bill or other receipt by the agent of the carrier. Signing a receipt without notation of damage to the Product(s) shall constitute conclusive evidence of receipt of the Products in satisfactory condition.

5.2 Partial Delivery. Hexagon may make partial shipments to Buyer and invoice accordingly, and Buyer shall be obligated to pay for such partial shipments when invoiced.

5.3 Delivery Dates. Shipments of any products purchased hereunder are subject to Hexagon’s availability schedule. Hexagon will make every reasonable effort to meet delivery dates quoted or acknowledged. However, Hexagon will not be liable for any failure to meet such dates.

5.4 Installation. Unless installation services by Hexagon have been purchased by Buyer, Buyer is responsible for installation of Software or Hardware Product(s).

6. Acceptance. Buyer shall be deemed to have accepted the products covered by this Agreement upon the earlier of: (a) delivery to Buyer, if installation by Hexagon is not included in the purchase price; (b) certification



by Hexagon that the product is installed and meet Hexagon's specifications, if installation by Hexagon is included in the purchase price; (c) utilization of the product by Buyer for any useful work.

7. General Terms of Payment. Subject to credit approval. Unless otherwise agreed upon in writing, payment for all Product(s) purchased by the Buyer from Hexagon shall be made within the time specified below. Invoices are due within 30 days of the invoice date. When invoices are past due, a late charge of point seven percent (0.70%) of the past due amount, increased with any accumulated charges, may be invoiced for each thirty (30) days past due. Hexagon reserves the right to delay, suspend or partition deliveries until full payment is received. For the avoidance of doubt, this means that Hexagon has the right to supply Buyer with a temporary, time-limited Product(s) License and to only supply a Product(s) License for the fully agreed Software License Term upon full payment.

7.1 Professional Services. Professional Services fees will be invoiced on a monthly basis unless otherwise stipulated in the Sales Quotation or Proposal. In the event of rescheduling of ordered Professional Services by Buyer less than five (5) days before the planned date for performance of such services, fifty percent (50%) of the fees will be invoiced.

7.2 License Fee. The total license fees set forth in the Sales Quotation will be invoiced upon Buyer's order or Buyer's signature of the Sales Quotation, whichever comes earliest.

7.3 Maintenance and Support Desk Fees. Maintenance and Support Desk fees for all periods of the term of this Agreement are payable in advance and will be invoiced at the then current price as described in Hexagon's then current price list. Upon each renewal of the Maintenance period, Hexagon may elect to increase the Maintenance and Support Desk fees for this new period in accordance with the Belgian Consumer Price Index (CPI).

7.4 Incidental Expenses. Buyer shall reimburse Hexagon for actual costs incurred by Hexagon representative to perform training services, Professional Services or any other services hereunder, for travel and living expenses when such services are performed at Buyer's site, increased with an administration fee of 10%. In addition, when services are performed outside the European Union, actual travel time will be invoiced to Buyer at an hourly rate equal to 40% of the normal hourly rate of the Hexagon representative. An hourly rate is equal to the daily rate divided by seven and a half.

8. Limited Warranties.

8.1 Software Products. Hexagon warrants that Software Product, as delivered by Hexagon, will be capable of operating substantially in conformance with Software Product's published specifications set forth in Software Product documentation. Hexagon does not provide any guarantee as to result, nor does Hexagon warrant that the operation of Software Product will be error-free. Hexagon will undertake to correct any reported error condition in accordance with the provisions of this Agreement. If Buyer does not pay the applicable Maintenance Fees, Software Product is distributed "as is", with no warranty whatsoever.

8.2 Hardware Products. Hexagon warrants for a period of one (1) year from the date of delivery, or the date of installation if installation by Hexagon is included in the purchase price, that the Hardware Product(s) is free from defect in material and workmanship and is of the kind and quality described in the quotation except that:

(a) Hexagon gives no warranty with respect to parts with a limited technical lifetime such as data discs and cassettes.

(b) Components of the Product produced by other manufacturers are warranted only to the extent that such components are warranted by the manufacturers supplying such components to Hexagon.

THE FOREGOING WARRANTIES ARE VOID IF FAILURE OF A WARRANTED ITEM RESULTS, DIRECTLY OR INDIRECTLY, FROM AN UNAUTHORIZED MODIFICATION OF A WARRANTED ITEM, AN UNAUTHORIZED ATTEMPT TO REPAIR A WARRANTED ITEM, OR MISUSE OF A WARRANTED ITEM (INCLUDING WITHOUT LIMITATION, USE OF WARRANTED ITEM UNDER ABNORMAL OPERATING CONDITIONS OR WITHOUT ROUTINELY MAINTAINING A WARRANTED ITEM). BUYER SHALL PROMPTLY NOTIFY HEXAGON OF ANY SUSPECTED DEFECTS IN SOFTWARE DELIVERY MEDIA.

8.3 Remedies. Upon written notification of any failure to conform to Hexagon's express warranties, Hexagon shall have the right either to replace or repair any defective Product, to refund the purchase price upon return of the defective Products, or to grant a reasonable allowance on account of such defects, and Hexagon's liability and Buyer's exclusive remedy for defective Products shall be limited



solely to such replacement, repair, or allowance, as Hexagon may elect. Hexagon shall be given reasonable opportunity to investigate all claims and no Product shall be returned to Hexagon until after written approval by Hexagon and receipt of written shipping instructions from Hexagon have been provided.

8.4 Effectiveness. The effectiveness of the warranties contained herein shall with respect to any particular defect be conditional upon Buyer's substantiation that the Product and its components have been stored, maintained, and operated in accordance with such reasonable instructions as are given by Hexagon to Buyer and with standard industry practice. Subject to the foregoing, the warranties contained in this Section shall remain in effect from the date hereof until thirty (30) days from the date that the product is shipped by Hexagon, unless the purchase price includes installation, in which case the period begins on the date Hexagon certifies to Buyer that the Product is installed and is operating in conformance with Hexagon specifications. If Buyer schedules or delays installation by Hexagon more than thirty (30) days after delivery, the warranty period shall begin on the thirty-first (31st) day from date of shipment.

8.5 DISCLAIMER. EXCEPT AS PROVIDED ABOVE, HEXAGON DISCLAIMS (TO THE EXTENT PERMITTED BY LAW) ALL WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE. THE WARRANTIES AND REMEDIES EXPRESSLY STATED ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND REPRESENTS THE FULL AND TOTAL OBLIGATION AND/OR LIABILITY OF HEXAGON WITH RESPECT TO THE SOFTWARE PRODUCT(S) AND HARDWARE PRODUCT(S). CERTAIN LIMITATIONS SET FORTH IN THIS DISCLAIMER MAY NOT APPLY IN SOME JURISDICTIONS.

8.6 Supplemental statements setting forth warranty terms different from the above are available for some Product types, and are incorporated herein if applicable. The terms of such supplemental statements supersede the terms hereof only to the extent they are inconsistent herewith.

9. Security Terms. Buyer hereby grants and Hexagon reserves a purchase money security interest in each Product purchased hereunder, and in any proceeds thereof, for the full amount of the Agreement price. Buyer agrees that Hexagon may sign on Buyer's behalf any document required to perfect such security interest. Payment in full of the purchase price of any Product purchased hereunder shall release the security interest on that Product.

10. Software License. Software Product(s) (whether furnished independently or bundled with Hardware) are furnished to Buyer under the terms of the applicable end user license agreement, which may be separately executed or may be included with the Product(s). Buyer agrees to execute the applicable Hexagon End User License Agreement or Hexagon Software License Agreement for Hexagon Software Products that are furnished without an included End User License Agreement or Software License Agreement. Buyer agrees to execute the applicable Third Party end user license agreement for Third Party Software Products that are furnished without an included Third Party end user license agreement.

11. Ownership. All Software Products furnished by Hexagon hereunder shall remain the property of Hexagon or the respective Third Party. Software Product(s) are licensed, not sold. Buyer understands that it is purchasing a license to use the Software Product(s) and is not purchasing the Intellectual Property of the Software Product(s).

12. Patent, Trademark, Copyright Infringement. In the event of any proceeding (suit, claim, or action) against Buyer arising from allegations that the Product(s), or services, or part thereof, furnished by Hexagon infringes a U.S. or European (EPO-issued) patent, copyright, trade secret, trademark, intellectual property, or other proprietary right of any Third Party, Hexagon will, if such proceeding does not result from modifications to the Product(s) made by Buyer or Buyer's use of any Product(s) in combination with other products not furnished by Hexagon, defend Buyer's right, or interest in the Product(s), at Hexagon's expense. Hexagon shall make such defense by counsel of its own choosing and Buyer shall reasonably cooperate with said counsel. Hexagon shall have sole control of said defense and any settlement of any claim. In the event any proceeding is found to be based on modifications, enhancements or addition made by Buyer or any person or entity, or Buyer's use of the Product(s), in combination with other products not furnished by Hexagon, Buyer agrees to defend Hexagon's right, title or interest in the Product(s), at Buyer's expense, to reimburse Hexagon any defense expenses inclusive of reasonable attorney's fees expended by Hexagon in defense of said claim, and pay any judgment rendered against Hexagon, provided Hexagon promptly notifies Buyer in writing of the proceeding. Buyer shall make such defense by counsel of its own choosing and Hexagon shall reasonably



cooperate with said counsel. Buyer, in such circumstances shall have sole control of the defense. In the event any Product(s) furnished hereunder are, in Hexagon's opinion, likely to or d become the subject of a claim of infringement of any duly issued patent or copyright or of any trade secrets or other intellectual property rights or other proprietary rights of a Third Party, Hexagon may at its option and expense, procure for Buyer the right to continue using the Product(s), or modify the Product(s) to make them non-infringing but functionally the same, or replace the Product(s) with (a) non-infringing equivalent(s), or refund the purchase price to the Buyer. **THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES RELATED TO PATENT, TRADEMARK AND COPYRIGHT INFRINGEMENT, EXPRESSED OR IMPLIED, AND THESE WARRANTIES ALONG WITH THE REMEDIES STATED ABOVE REPRESENT THE FULL AND TOTAL OBLIGATION AND/OR LIABILITY OF HEXAGON WITH REGARD TO INFRINGEMENT. CERTAIN LIMITATIONS SET FORTH IN THIS DISCLAIMER MAY NOT APPLY IN SOME JURISDICTIONS.**

13. Maintenance. If maintenance of Product(s) is desired beyond that provided by the applicable warranty, such service can be provided under separate contract. Maintenance and support of the Product(s) will be provided to Buyer in accordance with Hexagon's standard maintenance options and the then-current Hexagon Maintenance Service Terms and Conditions.

14. Professional Services.

14.1 Training, Consulting and Custom Development Services. Hexagon will provide training, consulting and custom development services ordered by Buyer under the terms and conditions of this Agreement and any relevant price list, work order or proposal, as mutually agreed between Hexagon and Buyer in the Sales Quotation.

14.2 Ownership. All executable programs and/or source code, not part of Software Product, and delivered hereunder to Buyer, and all programming documentation relating thereto (the "Work Product"), shall be licensed on a non-exclusive basis to Buyer for the entire duration of Hexagon's Intellectual Property Rights on the same, with the unlimited right for Buyer to reproduce, distribute, alter or resell such Work Product. Hexagon shall retain all Intellectual Property Rights in the Work Product and in any and all ideas, concepts, methods, know-how, source code or techniques related to programming and processing of data, discovered or developed by Hexagon during the performance of Professional Services.

15. Assignment. Neither Hexagon nor Buyer shall assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, provided that such consent shall not be unreasonably withheld, except that Hexagon may assign its rights and obligations under this Agreement without the approval of Buyer to an entity which acquires all or substantially all of the assets of Hexagon or to any subsidiary, affiliate, or successor in a merger or acquisition of Hexagon.

16. Limitation of Liability. NOT WITHSTANDING ANYTHING TO THE CONTRARY, HEXAGON SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF USE OR PRODUCTION, REVENUE OR PROFIT, OR LOSS OF DATA OR CLAIMS OF THIRD PARTIES, EVEN IF HEXAGON HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCE SHALL HEXAGON'S TOTAL LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT THAT HEXAGON HAS BEEN PAID BY BUYER UNDER THIS AGREEMENT AT THE TIME THE CLAIM IS MADE. EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW, NO CLAIM, REGARDLESS OF FORM, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT MAY BE BROUGHT BY BUYER MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

17. Cancellation, Rescheduling, Returns.

17.1 Cancellation. No cancellation will be accepted for products that have shipped or Third Party Products that have been ordered by Hexagon for Buyer. Buyer agrees that title, rights, and/or interests to the cancelled item(s) shall remain with Hexagon and that Buyer shall have no title, right, and/or interest to such.

17.2 Rescheduling. In the event that Buyer makes changes following initial placement of the order, Hexagon reserves the right to reschedule Buyer's order. Upon Buyer's written notification of change(s), a new shipment date will be established by Hexagon. Hexagon will inform Buyer and obtain Buyer's direction regarding any charges that Hexagon would incur as a result of an order modification. If Buyer directs Hexagon to modify the order for which Hexagon will incur a charge, Buyer agrees to pay all charges for the modification.



17.3 Returns. No return of any Product(s) to Hexagon will be accepted unless previously authorized in writing by Hexagon, whether under warranty or otherwise. Any returns other than those under warranty will be subject to a reasonable restocking charge.

18. Nondisclosure. Buyer understands that Hexagon possesses information and data that was developed, created, or discovered by Hexagon, or which has become known to, or has been conveyed to Hexagon which has commercial value in Hexagon's day-to-day business. Hexagon considers such information and/or data to be proprietary and confidential. Such information and/or data includes, but is not limited to, trade secrets, copyrights, inventions (whether patentable or not), concepts, ideas, methods, techniques, formulae, algorithms, logic designs, screen displays, schematics, source and object code computer programs all of which shall hereinafter be singularly or collectively referred to as Hexagon's Intellectual Property. Buyer agrees to use reasonable efforts to treat and maintain as proprietary and confidential Hexagon's Intellectual Property or any information or data provided by Hexagon, in whatever form, as it would its own proprietary and confidential information and data, but in any event, no less than reasonable care, and to comply with all license requirements, copyright, patents and trade secret laws as they may pertain to any of Hexagon's Intellectual Property or other information or data provided by Hexagon.

19. Force Majeure. Hexagon has no obligation to deliver the Product(s) against any order until it has accepted the order. In any event, Hexagon will not be liable for any delay in shipment or any failure to ship the Product against an accepted order or for any damages suffered by reason thereof, when such delay or failure is, directly or indirectly, due to accident (in manufacture or otherwise), fire, flood, seizure, riot, acts of terrorism, war, embargo, labor stoppages or difficulties, inadequate transportation facilities, shortage of material or supplies, delay or default on the part of its suppliers, regulation or order by government authority, or any other casualty or cause beyond the reasonable control of Hexagon, which Hexagon, in its discretion, declares to be Force Majeure resulting in such delay or failure. Hexagon may, at its option, cancel this order, or delay performance hereunder for any period reasonably necessary due to any of the foregoing, during which time this Agreement shall remain in full force and effect. Hexagon shall have the further right to then allocate its available materials and product between its own uses and its customers in such manner as Hexagon may consider fair and equitable.

20. Order of Precedence. The Terms and Conditions hereof take precedence over Buyer's additional or different terms and conditions, to which notice of objection is hereby given. Acceptance by Buyer is limited to Hexagon's Terms and Conditions. Neither Hexagon's commencement of performance nor delivery shall be deemed or construed as acceptance of Buyer's additional or different terms and conditions. The Terms and Conditions of this Agreement (including the terms and conditions of the standard end user license agreement applicable to any Software Products) constitute the entire understanding between the parties and supersede any previous communications, representations, or agreements by either party whether verbal or written. Any future representations, promises and verbal agreements related to products, product features, future product enhancements, product functionality, or services covered by this Agreement will be of no force or effect unless reduced in writing and made a part of this Agreement. No change or modification of any of the Terms and Conditions herein shall be valid or binding on either party unless in writing and signed by an authorized representative of the party to be bound.

21. Severability. Whenever possible, each provision of these Terms and Conditions and each related document shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of these Terms and Conditions or any related document shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of these Terms and Conditions or such related document.

22. Export Control. Buyer agrees to comply fully with all relevant export laws and regulations, including any regulations or laws of the United States if applicable (hereinafter "Export Law"), to assure that neither the Product(s) or anything provided by Hexagon hereunder are exported directly or indirectly in violation of said Export Law or are intended to be used for a purpose prohibited by said Export Law. With respect to the export by Buyer of the Product(s), including documentation, data, or information pertaining thereto the Product(s), or anything containing the Product(s), the disclosure of the Software to a non U.S. national (if export is subject to export regulations and laws of the United States), or any other activities relating to the Software, Buyer agrees that it shall obtain any and all necessary or appropriate export licenses, permits, or other authorizations and shall otherwise comply with all statutes, regulations, or other requirements of any governmental agency. Notwithstanding the foregoing, Hexagon's and Third Party's Product(s) may be subject to export controls



promulgated by the Government of the United States. Buyer warrants that it will not export or re-export, either directly or indirectly, any such Product or restricted direct Product thereof, without first obtaining any necessary authorization from the U.S. Government, when required. Buyer agrees to comply with all U.S. laws and regulations and to furnish and/or sign any and all applicable export.

23. Waiver. Any failure by Hexagon to enforce performance of the Terms and Conditions set forth in this Agreement shall not constitute a waiver of, or affect Hexagon's right to avail itself of such remedies as it may have for any subsequent breach of this Agreement.

24. Governing Law and jurisdiction. Agreement shall be governed by and construed in accordance with Belgian material law, excluding any provisions on conflict of laws and international private law, and excluding the provisions of the Vienna Convention of the sale of Goods, and the parties hereby submit to the exclusive jurisdiction of the courts of Leuven.