MASTER SAAS SUBSCRIPTION AGREEMENT
Hexawise Inc.
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BY PROCEEDING TO DOWNLOAD, INSTALL OR USE THE SOFTWARE IN WHICH THIS AGREEMENT IS ELECTRONICALLY EMBEDDED OR BY OBTAINING A LICENSE KEY FOR THIS SOFTWARE, YOU HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, THEN CLICK "DO NOT ACCEPT," DO NOT INSTALL OR USE THE SOFTWARE AND DELETE THE SOFTWARE FROM YOUR COMPUTER SYSTEM. BY INSTALLING OR USING THE SOFTWARE OR BY CLICKING ON "ACCEPT" YOU ACKNOWLEDGE AND AGREE THAT ON BEHALF OF YOURSELF AND YOUR EMPLOYER YOU HAVE READ THIS SOFTWARE LICENSE AGREEMENT CAREFULLY, THAT YOU AND YOUR EMPLOYER AGREE TO BE BOUND BY THIS AGREEMENT AND THAT IF APPLICABLE YOUR EMPLOYER HAS INFORMED YOU OF THE RELEVANT PROVISIONS OF THIS AGREEMENT WHICH MAY BE APPLICABLE TO YOU. THIS AGREEMENT, SHALL GOVERN YOUR INSTALLATION AND USE OF THE SOFTWARE IN WHICH THIS AGREEMENT IS ELECTRONICALLY EMBEDDED. HEXAWISE URGES YOU TO CAREFULLY READ THIS AGREEMENT AND ASSESS YOUR USE OF THE SOFTWARE PRIOR TO INSTALLING OR USING THE SOFTWARE OR MAKING ANY DECISION TO USE OR PURCHASE IT.

THIS MASTER SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT, is dated as of the date of, in the case of any Evaluation Software (as defined in Section 16 below), the date of Customer's acquisition of a License Key, or in the case of any purchase of a license for use of the Licensed Software (as defined below), the date of the Purchase Order (as defined below) pursuant to which such license is purchased, is between Hexawise Inc., a Delaware corporation ("Hexawise") and, in the case of any Evaluation Software, the customer to whom temporary Licenses Keys are delivered or, in the case of any purchase of a license for use of the Licensed Software, the customer set forth on the purchase order pursuant to which such license is purchased (in each case, herein "Customer"), and sets forth the terms and conditions whereby Hexawise agrees to provide to Customer for a limited period of time and Customer agrees to acquire from Hexawise one or more limited licenses to access and use certain software and documentation and maintenance services related thereto, owned or licensed by Hexawise or a subsidiary or an affiliate of Hexawise, as set forth on the Purchase Order, which shall be delivered by Hexawise as a hosted service. To the extent any terms or conditions contained in the Purchase Order conflict with the terms or conditions contained in this Agreement, the terms and conditions of the Purchase Order shall supersede only those conflicting terms or conditions contained in this Agreement and only to the minimum extent necessary to harmonize the terms and conditions in such Purchase Order with the terms and conditions contained herein. The Purchase Order together with the terms and conditions of this Agreement (as defined below), shall constitute and be construed as a single agreement consisting of the terms and conditions contained in the Purchase Order together with the terms of this Agreement. This Agreement specifically supersedes and replaces the terms and conditions of all prior agreements between Hexawise and Customer relating to the software subscribed to hereunder by Customer, including, but not limited to, any shrink-wrap agreements, click-wrap agreements or any demo or trial agreements which may accompany or are embedded in Hexawise's products or which have been previously in force between the parties. If Customer is evaluating Evaluation Software, then only the terms and conditions of Section 16 below (including those Sections of this Agreement incorporated therein by reference) will govern Customer's temporary use of such Evaluation Software (and no other terms of this Agreement shall apply to Customer or govern Customer's use of Evaluation Software) and upon purchase of a commercial subscription or commercial license for such Evaluation Software, this entire Agreement, exclusive of Section 16, shall apply to Customer and govern all use of the Licensed Material (as defined below). In consideration of the mutual promises and agreements contained herein, the parties hereto also agree as follows:

GENERAL TERMS AND CONDITIONS

1. Definitions –

(a) "Agreement" means this master software as a service subscription agreement, together with all exhibits, schedules, annexes and Purchase Orders made a part hereof in accordance with the terms of this Agreement and all amendments, modifications, supplements and alterations thereto effected in accordance with the terms of this Agreement.

(b) "Confidential Information" means all technical and non-technical information in both tangible and intangible form, including, but not limited to, product design information, software code, technical information, customer information, discounting, cost and pricing information, financial information and the results derived from or methodology employed by Customer in conducting any benchmark testing of the SaaS Service; provided that the term "Confidential Information" shall not include information which the recipient can show by reasonable proof (i) to have been known by the recipient prior to the time of disclosure by the disclosing party, (ii) to have become part of the public domain through no fault or breach of this Agreement by the recipient, (iii) to have been disclosed to the recipient in good faith by a third party who is not under any obligation of confidence or secrecy to the disclosing party at the time such third party discloses the information to the recipient or (iv) to have been compelled to be produced by a court of competent jurisdiction, provided that the recipient shall first give notice to the disclosing party of any such request or order of the court to give the disclosing party an opportunity to contest or limit said request or order of the court.

(c) "Customer Data" means all text, images, documents, materials, photos, audio, video, and all other forms of electronic data or information inputted or uploaded by or for Customer to the SaaS Services.

(d) "Error" means any error, defect or omission that (i) is discovered in the SaaS Service, (ii) is reproducible and (iii) prevents operation of the SaaS Service substantially in accordance with the Licensed Documentation.

(e) "Licensed Documentation" means the published user manuals that Hexawise makes generally available for the SaaS Service.

(f) "Licensed Material" means the Licensed Software and the Licensed Documentation.

(g) "Licensed Software" means the machine-readable object code version of (i) the software specified on each Purchase Order which is hosted by Hexawise and made available to Customer for use via the internet and (ii) all Updates for the Licensed Software that Hexawise makes available to users of the Licensed Software, including Updates made available in connection with Maintenance Services pursuant to Section 4 of this Agreement.

(h) "Maintenance Services" means the technical support services provided by Hexawise pursuant to Section 4 hereof.

(i) "Purchase Order" means (i) Hexawise's standard price quote, purchase order, order form or purchase confirmation (including such price quotes, order forms and purchase confirmations as may be delivered through use of Hexawise's online store), as such document may be amended, supplemented or modified from time to time in accordance with this Agreement or (ii) any other non-Hexawise price quote, purchase order, order form or purchase

confirmation delivered by Customer to Hexawise but solely to the extent permitted by and delivered in accordance with Section 15.

(j) "SaaS Service" means the online, web-based versions of the Licensed Software provided by Hexawise that is subscribed to by Customer pursuant to a Purchase Order, including associated offline components and third party applications. SaaS Services, offline components, and Third Party Applications are accessed as web-based applications unless specifically or otherwise set forth in a Purchase Order.

(k) "Subscription Term" means, with respect to any SaaS Service, the subscription period specified on the Purchase Order pursuant to which Customer subscribed to such SaaS Service; together with all renewals thereof effected in accordance with the terms of this Agreement; provided that to the extent no such time period or duration is specified in the Purchase Order pursuant to which Customer subscribed to such SaaS Service, the period of time or duration of the subscription shall be one (1) year commencing on the date of such Purchase Order, together with all renewals thereof effected in accordance with the terms of this Agreement.

(l) "Use" means each particular instance the Customer accesses and executes operation of the Licensed Software through use of the SaaS Service.

(m) "User" means individuals who are authorized by Customer to use the SaaS Service, for whom subscriptions to a SaaS Service have been purchased, and who have been supplied user identifications and passwords by Customer (or by Hexawise at Customer's request). Users may include but are not limited to employees, consultants, contractors and agents of Customer, or, subject to the restrictions contained herein, third parties with whom Customer transacts business.

(n) "Update" means any revision, enhancement, improvement or modification to or programming fix for the SaaS Service or Licensed Documentation which Hexawise makes generally available, incorporates into and makes a part of the SaaS Service or Licensed Documentation and does not separately price or market.

2. SAAS SERVICE & SUBSCRIPTION TYPES –

(a) **SaaS Service** – Subject to the terms and conditions of this Agreement, including, but not limited to the applicable restrictions set forth in Section 2(b) below, and subject further to Customer's full compliance herewith and according to the scope, time period and other terms indicated on the applicable Purchase Order delivered in connection with this Agreement, Hexawise hereby grants Customer and Customer hereby accepts from Hexawise, a limited, non-exclusive, non-sublicensable (except as otherwise expressly provided in Section 17(a) below), and non-transferable (except as otherwise expressly provided in Section 17(a) below) right and license during the Subscription Term to access and use the SaaS Service in accordance with the applicable restrictions and conditions contained in this Agreement. Customer acknowledges that the only right granted by Hexawise to use the Licensed Software is via the SaaS Service as a software service hosted by Hexawise and made available to Customer via the internet. Hexawise does not grant Customer any right to install the Licensed Software on Customer's premises or on any equipment owned or controlled by Customer. Customer's right to use the SaaS Service during the Subscription Term shall extend to use by third parties under a written agreement with Customer to provide outsourcing services for Customer's own internal business operations; provided, that (i) such third parties have agreed to abide by the terms of this Agreement and (ii) Customer shall remain primarily liable for all acts and omissions by such third parties.

(b) **Usage and Restrictions** – Customer acknowledges and agrees that, as between Customer and Hexawise, Hexawise, its subsidiaries and affiliates and its licensors own and shall continue to own all right, title, and interest in and to the SaaS Service, Licensed Material and all derivatives thereof, including associated intellectual property rights under copyright, trade secret, patent, or trademark laws. This Agreement does not grant Customer any ownership interest in or to the SaaS Service or Licensed Material, but only a limited right and license to use the SaaS Service during the Subscription Term in accordance with the terms of this Agreement and each applicable Purchase Order. Customer further acknowledges and agrees that the licenses granted hereunder and the restrictions applicable to Customer's access and use of the SaaS Service will vary according to the type SaaS Service subscribed to by Customer and the type of subscription purchased by Customer. One or more of the restrictions set forth in this Section 2 may apply to the SaaS Service depending upon the type of SaaS Service subscribed to by Customer, the type of subscription purchased and the terms contained in the applicable Purchase Order relating to the SaaS Services. Customer is encouraged to carefully review all terms and restrictions contained in this Section 2 and each Purchase Order. Customer hereby agrees to the following restrictions and conditions applicable to the SaaS Services as set forth in the Purchase Orders delivered by Customer under this Agreement:

(i) For all SaaS Services made generally available by Hexawise on a per-User subscription basis (a "User Subscription"), Customer may Use such SaaS Service by no more than the specified number of Users for which subscriptions have been purchased, as set forth in a Purchase Order; and

(ii) For all SaaS Services made generally available by Hexawise on a per-Use basis (a "Per-Use Subscription"), Customer may use such SaaS Service and execute the Licensed Software via the SaaS Service by no more than the number of Uses for which subscriptions have been purchased, as set forth in a Purchase Order.

Additional User subscriptions may be added during the Subscription Term for a pre-existing User Subscription. User Subscriptions are for designated Users and shall not be used or shared by more than one User but may be reassigned to new Users to replace existing Users by the Customer. In no event shall Customer access or use a Service in contravention of the foregoing restrictions applicable to such SaaS Service or any other restrictions contained in this Agreement. In no event shall Customer operate, use or access the SaaS Service or Licensed Software in contravention of the foregoing restrictions applicable to the SaaS Service or the Licensed Software or any other restrictions contained in this Agreement.

(c) **High Risk Usage Prohibited** – Customer may not use the SaaS Services for any military or nuclear-engineering purposes or software applications related thereto or in connection with any software application that is used in connection with monitoring or assessing human health without the express prior written consent of Hexawise.

(d) **Renewal of Subscription Term** – Upon expiration of each Subscription Term, unless otherwise specified in the applicable Purchase Order, all limited subscription licenses granted under this Agreement shall automatically renew for an additional Subscription Term equal to the preceding Subscription Term, and Hexawise will invoice Customer at the then-current subscription-based price for such additional Subscription Term, unless Hexawise is notified by Customer in writing within thirty (30) days from the date of receipt of Hexawise's notice of renewal that Customer elects not to renew such limited subscription license for an additional Subscription Term.

(e) **Other Services** – All SaaS Services and Maintenance Services subscribed to by Customer shall be governed by this Agreement, together with the applicable Purchase Orders delivered hereunder. Unless otherwise agreed by the parties in writing, all professional services purchased by Customer in respect of the SaaS Services, if any, including implementation services, training services and professional services (collectively, "Ancillary Services"), shall be governed solely by a separate written mutually acceptable services agreement entered into by the parties or, in the absence of such

agreement, Hexawise's standard professional services agreement, and acceptance of the SaaS Service shall not be contingent upon Customer's acceptance of any such Ancillary Services.

(f) **Use of Artificial Intelligence Features** – Hexawise may, from time to time, offer products, functionalities or capabilities within the SaaS Service that incorporate artificial intelligence ("AI Features") using technology provided by one or more third-party tools, software or services ("Third-Party AI Tools"). Customer's access to and use of all AI Features is governed by this Agreement and any supplemental terms that may be published by Hexawise in connection with Customer's election to opt in to use of such AI Features (any such terms, the "Supplemental Terms"). Hexawise will provide Customer with the opportunity to affirmatively opt in to the use of any AI Features. Customer may opt out at any time by changing the account settings. Declining to opt in may limit Customer's access to certain features of the SaaS Service. Customer's use of the AI Features is subject to continued compliance with the terms of this Agreement and all applicable Supplemental Terms.

3. REGISTRATION AND PAYMENT TERMS –

(a) **Registration** – To use and access the SaaS Service, Customer must register with Hexawise at DesignWise.Hexawise.com by generating a username and password for each User ("Registration"). All passwords shall be personal and non-transferable. The parties shall treat all passwords and usernames generated for the purpose of Registration as Confidential Information.

(b) **Payment** – Upon delivery of a Purchase Order by Customer, Hexawise shall deliver an invoice to Customer specifying the subscription fees payable pursuant to such Purchase Order for the Subscription Term. Customer shall pay all subscription fees specified therein within thirty (30) days of Customer's receipt of such invoice and shall pay such amount in the currency designated therein by Hexawise. In the event that Customer elects to purchase a SaaS Service online through use of Hexawise's website or online store, Customer is required to pay all fees due hereunder with a credit card, and Customer (i) shall provide Hexawise with a valid form of credit card payment at the time of such purchase and to keep all such credit card information current and accurate in respect of all renewal fees, (ii) shall promptly notify Hexawise if its credit card has changed or has been declined and (iii) hereby consents to Hexawise automatically processing and charging all fees due by Customer hereunder as they become due, including all renewal fees, to the credit card submitted by Customer. All fees payable by Customer in respect of such Ancillary Services may be separately invoiced. Customer's payment obligation with respect to all subscription fees owing hereunder shall be independent of the provision of Ancillary Services, whether or not such Ancillary Services are separately invoiced. Any late payment of any amount owing hereunder shall accrue interest at a rate equal to the lesser of (i) 15% per annum and (ii) the maximum rate permitted by law.

(c) **Taxes** – All payments referred to in this Agreement are exclusive of value added tax, sales tax and any other applicable taxes, duties or imposts which (with the exception only of those based on Hexawise's income) shall also be payable by Customer in accordance with applicable law.

4. MAINTENANCE – Hexawise does not warrant that the SaaS Service will operate error-free or may be used error-free. Customer's right to use the SaaS Service during the Subscription Term shall include the provision of Maintenance Services by Hexawise at no additional fee. Upon Customer's payment of the subscription fees associated with the Subscription Term purchased by Customer for the SaaS Service specified in a Purchase Order, Hexawise shall provide Maintenance Services in accordance with this Section 4 and in accordance with any additional Maintenance Services terms specified in such Purchase Order. Hexawise or its authorized representative will provide Maintenance Services for the SaaS Service during each Subscription Term. Maintenance Services includes problem determinations, reasonable problem resolutions, provisioning of software program temporary fixes and new releases. Maintenance Services shall also include the additional Maintenance Service terms expressly set forth in writing in the Purchase Order delivered by Customer, which are hereby incorporated herein by reference. Maintenance Services shall entitle Customer to receive, at no additional cost, all Updates. Hexawise shall reserves the right to update the SaaS Service at any time without notice to Customer.

5. PROPRIETARY RIGHTS

(a) Customer shall not acquire, by virtue of this Agreement, any right or license other than as expressly provided herein. Customer shall not reproduce the SaaS Services or the Licensed Material or other confidential or proprietary information of Hexawise, except as provided in this Agreement. All proprietary rights in and to the SaaS Service, the Licensed Material and all Evaluation Software (as defined in Section 16 below), all derivatives, translations, modifications, adaptations, improvements, enhancements or developments thereof and all confidential or proprietary information of Hexawise, including without limitation, all rights under and with respect to patents, copyrights, trademarks and rights under the trade secret laws of any jurisdiction shall remain the sole property of Hexawise, its subsidiaries or affiliates or its applicable licensors, whether recognized by or perfected under applicable local law. Customer shall promptly notify Hexawise of any infringement of Hexawise's proprietary rights of which it becomes aware.

(b) Customer shall retain ownership of all rights, title and interest in and to all Customer Data. Customer is solely responsible for obtaining all consents necessary to process any Customer Data, including any personally identifiable information inputted or uploaded into the SaaS Service or the Licensed Software by Customer or Users and Customer shall fully comply with all applicable laws governing the processing, disclosure, transmission or protection of personally identifiable information. Hexawise shall maintain appropriate administrative, physical, and technical safeguards for protection of Customer Data as set forth in the Hexawise Data Processing Agreement, which is incorporated hereby by this reference, and Hexawise's Privacy Policy, as each may be amended from time to time, and are available on Hexawise website. For information about how we collect, use, share, or otherwise process personally identifiable information about Customer and Customer's use of our SaaS Service, please see Hexawise Privacy Policy. Neither Customer nor its users shall use the SaaS Service to: (i) send, upload or otherwise transmit any Customer Data that is unlawful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (ii) upload or otherwise transmit, display or distribute any Customer Data that infringes any trademark, trade secret, copyright or other proprietary or intellectual property rights of any person; (iii) upload or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (iv) interfere with or disrupt the SaaS Service or networks connected to the SaaS Service; or (v) violate any applicable law or regulation. Hexawise shall not (A) modify Customer Data except for the provision of the SaaS Service, (B) disclose Customer Data except as required by law or (C) access or use Customer Data except (I) in accordance with Section 13, (II) to prevent or address service or technical problems, or (III) at Customer's request in connection with the provision of the SaaS Services and Maintenance Services.

(c) Customer hereby grants to Hexawise a worldwide, royalty-free, non-exclusive license, with the right to sublicense, to copy, reproduce, modify, use, perform, display, distribute, and create derivative works of all data, content, materials, inputs and outputs provided or generated by Customer through the SaaS Service, including any AI Features (collectively, "Customer Content"), solely during the Term of this Agreement and for the following purposes: (a) to deliver and operate the Services in accordance with this Agreement; (b) to develop, enhance, and improve the Services; (c) to carry out any actions expressly authorized or directed by Customer in writing (including via email); and (d) to comply with applicable law. Customer represents and warrants that it has all necessary rights, licenses, and consents to provide the Customer Content to

Hexawise and to grant the foregoing license, and that such provision and use do not infringe, misappropriate, or otherwise violate the intellectual property or other rights of any third party. Hexawise shall have no liability for: (i) any Customer Content transmitted, processed, or viewed through the Services; (ii) any errors or omissions in Customer Content; or (iii) any loss or damage arising from use of, or inability to access, Customer Content. Customer retains all ownership rights in and to the Customer Content, subject to the rights granted to Hexawise under this Agreement. Hexawise reserves the right, in its sole discretion, to remove any Customer Content from the SaaS Services at any time and without notice if Hexawise becomes aware that such content may violate this Agreement or applicable law. Customer acknowledges that Hexawise does not pre-screen Customer Content, but may do so at its discretion. Customer is solely responsible for backing up all Customer Content, and Hexawise expressly disclaims all liability for the loss, corruption, or unauthorized access of any Customer stored or transmitted on its systems or networks, whether temporarily or permanently. Customer further acknowledges and agrees that it is responsible for the actions and omissions of its authorized users with respect to Customer Content.

6. LIMITED WARRANTIES

(a) **Warranty by Hexawise** – Hexawise warrants to Customer that during the Subscription Term (the "Warranty Period") the SaaS Service will perform substantially as described in the accompanying Licensed Documentation. Hexawise does not warrant that (i) the SaaS Service will satisfy or may be customized to satisfy any of Customer's requirements or any other particular use or (ii) the use of the SaaS Service will be uninterrupted or error-free. Laws from time to time in force may imply warranties that cannot be excluded or can only be excluded to a limited extent. This Agreement shall be read and construed subject to any such statutory provisions.

(b) **Remedies** – If at any time during the Warranty Period, Hexawise breaches the warranty set forth in clause (a) above, then Customer shall promptly notify Hexawise of such Error or breach and Hexawise shall (A) use all commercially reasonable efforts to correct such Error or breach within thirty (30) days of notification or (B) provide Customer within thirty (30) days of notification with a plan reasonably acceptable to Customer for correcting such Error or breach. If such Error or breach is not corrected or if a reasonably acceptable plan for correcting such Error or breach is not established within such thirty (30) day period, Customer may terminate this Agreement and Hexawise shall refund to Customer the pro rata portion of all pre-paid subscription fees actually paid by Customer for the defective SaaS Service in respect of the remaining portion of the current Subscription Term. Hexawise's obligations under this Section 6(b) shall be waived in the event such Error or breach is due to (I) any defect in or misconfiguration of Customer's computer hardware or network, (II) the failure of Customer's internet service, or (III) an unauthorized alteration, revision or configuration of the SaaS Service or to Customer's computer system by Customer or its employees. Customer acknowledges that this Section 6(b) sets forth Customer's sole and exclusive remedy, and Hexawise's and its authorized representatives' sole and exclusive liability, for any breach of warranty, Error or failure of the SaaS Service to function properly.

(c) **Warranty by Customer** – Customer warrants to Hexawise that Customer shall not (i) use the SaaS Service to process, store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to use, copy, modify, process, store or transmit material in violation of third-party privacy rights, (ii) use the SaaS Service to transmit advertisements, viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs, or (iii) attempt to gain authorized access to the SaaS Service, the Licensed Software or the related systems or networks used to maintain the SaaS Service.

(d) **Third Party Websites**. Hexawise may include in the SaaS Service links to other sites on the internet that are owned and operated by third parties, including other affiliates or customers of Hexawise (all such internet sites, "Third Party Sites"). Customer acknowledges that Hexawise is not responsible for the availability of, or the content located on or through, any Third Party Sites. Customer's use of Third Party Sites is subject to the terms of use and privacy policies of each such Third Party Site, and Hexawise is not responsible for the products, services or content offered or made available on any Third Party Site.

(e) Disclaimer – EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL WARRANTIES, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO THE SAAS SERVICE AND THE LICENSED MATERIAL, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY HEXAWISE OR ITS AUTHORIZED REPRESENTATIVES OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE) ARE HEREBY OVERRIDDEN AND DISCLAIMED.

7. INDEMNITY

(a) **Indemnity by Hexawise** – Subject to this Section 7 and Section 8 below, Hexawise agrees during the Subscription Term to indemnify, defend and hold harmless Customer from and against all claims, damages, losses, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) arising out of any claim by a third party asserting that the SaaS Service, the Licensed Material or any of Customer's use thereof, infringes upon any third party's patent, copyright or trademark, provided that (i) Customer promptly notifies Hexawise in writing no later than thirty (30) days after Customer's notice of any potential claim, (ii) Customer permits Hexawise to defend, compromise or settle the claim, and provided further that no settlement intended to bind Customer shall be made without Customer's prior written authorization and (iii) Customer gives Hexawise all available information, reasonable assistance, and authority to enable Hexawise to do so.

(b) **Alternative Remedy** – If a claim described in Paragraph 7(a) may or has been asserted, Customer will permit Hexawise, at Hexawise's option and expense, to (i) procure the right to continue using the SaaS Service during the current Subscription Term or (ii) replace or modify the SaaS Service or the Licensed Material to eliminate the infringement while providing functionally equivalent performance. If neither of the foregoing remedies are practicable then Customer may terminate this Agreement and Hexawise shall refund to Customer the pro rata portion of all pre-paid subscription fees actually paid by Customer for such SaaS Service in respect of the remaining portion of the current Subscription Term.

(c) Limitation – Hexawise shall have no indemnity obligation to Customer hereunder if the violation or infringement claim results from (i) a correction or modification of the SaaS Service or Licensed Material not provided by Hexawise or its authorized representative, (ii) the combination of the SaaS Service with other non-Hexawise software or services, (iii) Customer's failure to obtain all consents and licenses necessary to process the Customer Data processed by Customer using the SaaS Service or (iv) continuing the allegedly infringing activity after receiving written notice of such infringement claim from Hexawise.

(d) Indemnity by Customer – Customer shall defend Hexawise against all claims, damages, losses, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) arising out of any claim by a third party asserting that the Customer Data or the Customer's processing of Customer Data through use of the SaaS Service infringes upon or misappropriates any third party's patent, copyright, trademark or other intellectual property right or violates any third party data privacy laws, provided that (i) Hexawise promptly notifies Customer in writing no later than thirty (30) days after Hexawise's notice of any potential claim, (ii) Hexawise permits Customer to defend, compromise or settle the claim, and provided further that no settlement intended to bind Hexawise shall be made without Hexawise's prior written authorization and (iii) Hexawise gives

Customer all available information, reasonable assistance, and authority to enable Customer to do so.

8. NO CONSEQUENTIAL DAMAGES – UNDER NO CIRCUMSTANCES WILL EITHER PARTY, THEIR RESPECTIVE AFFILIATES OR ANY OF THEIR RESPECTIVE AUTHORIZED REPRESENTATIVES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS BY THE OTHER PARTY OR ANY THIRD PARTY (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF DATA, GOODWILL, PROFITS, USE OF MONEY OR USE OF THE LICENSED MATERIALS, INTERRUPTION IN USE OR AVAILABILITY OF DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, EXCEPT ONLY IN THE CASE OF PERSONAL INJURY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY INCURRED BY HEXAWISE, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE AUTHORIZED REPRESENTATIVES IN ANY ACTION OR PROCEEDING EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER DURING THE CURRENT SUBSCRIPTION TERM FOR THE SPECIFIC LICENSED SOFTWARE THAT DIRECTLY CAUSED THE DAMAGE.

9. CONFIDENTIALITY

(a) **Confidentiality.** – Customer acknowledges that the SaaS Service and the Licensed Materials incorporate confidential and proprietary information developed or acquired by or licensed to Hexawise and that all results of testing of the SaaS Service, whether performed by Customer or another third party, are confidential. In no event will Customer publish or disclose the results of any testing or performance specifications of the SaaS Services without Hexawise's express prior written consent. A party that receives Confidential Information (the "Receiving Party") from the other party (the "Disclosing Party") shall not: (i) export or re-export (within the meaning of US laws or other export control laws or regulations) any Confidential Information, except in strict compliance with US laws; (ii) reverse engineer any Confidential Information; or (iii) disclose or make available the Disclosing Party's Confidential Information to any of the Receiving Party's employees, agents, contractors or consultants or to any third parties, except those that have agreed in writing to be bound by terms and conditions substantially similar to, and no less restrictive with respect to limitations on use and disclosure, than those contained in this Agreement and each of which have a "need to know" in order to carry out the purposes set forth in this Agreement. Each party shall take all reasonable precautions necessary to safeguard the confidentiality of all Confidential Information disclosed by the other party, including those precautions (A) taken by the disclosing party to protect its own Confidential Information and (B) which the disclosing party or its authorized representative may reasonably request from time to time. Neither party shall allow the removal or defacement of any confidentiality or proprietary notice placed on the Confidential Information disclosed by the disclosing party. The placement of copyright notices on Confidential Information shall not constitute publication or otherwise impair their confidential nature of such information.

(b) Disclosure – If an unauthorized use or disclosure of the disclosing party's Confidential Information occurs within the recipient party's enterprise, the recipient party will immediately notify the disclosing party or its authorized representative and take, at recipient party's expense, all steps which may be available to recover such Confidential Information and to prevent its subsequent unauthorized use or dissemination.

10. TERMINATION – Customer's right to access and use a SaaS Service will automatically terminate upon expiration or termination of the Subscription Term for such SaaS Service. In addition to the termination rights afforded Customer in Sections 6(b) and 7(b) hereof, upon 30-days prior written notice to Hexawise, Customer may terminate this Agreement and all subscriptions purchased hereunder; provided, however, that Customer shall not be entitled to any refund or credit (except as otherwise expressly set forth in Sections 6(b) and 7(b) of this Agreement) of any amounts paid by Customer or a release from or cancellation, waiver or novation of any amounts payable or promised to be paid by Customer hereunder and all such amounts payable or promised to be paid by Customer in respect of the remaining portion of the current Subscription Term shall automatically accelerate, become immediately due and payable and shall survive termination of this Agreement. If Customer or any of Customer's employees, consultants, authorized representatives or permitted third parties breach any term or condition of this Agreement, Hexawise may terminate this Agreement, without judicial or administrative resolution or obligation to refund and all amounts payable or promised to be paid by Customer in respect of the remaining portion of the current Subscription Term shall automatically accelerate, become immediately due and payable and shall survive termination of this Agreement. This Agreement will terminate automatically if Customer ceases to do business, becomes insolvent, goes or is put into receivership or liquidation, passes a resolution for its winding up (other than for the purpose of reconstruction or amalgamation) or for any of the foregoing, makes an arrangement for the benefit of its creditors, enters into bankruptcy, suspension of payments, moratorium, reorganization or any other proceeding that relates to insolvency or protection of creditors' rights or takes or suffers any similar action in consequence of debt. Upon the termination of this Agreement for any reason, all rights granted to Customer hereunder will cease, and Customer will promptly (A) cease access to and use of the SaaS Service and purge any Licensed Software and any related Updates from all of Customer's computer systems, storage media and other files, (B) destroy the Licensed Documentation and all copies thereof and (C) deliver to Hexawise an affidavit certifying that Customer has complied with these termination obligations. The provision of Sections 1, 3(a), 3(b), 8 through 15 and 17 shall survive the termination of this Agreement.

11. U.S. EXPORT RESTRICTIONS – Customer acknowledges that the Licensed Materials and all related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations. Customer covenants and agrees to comply with all import and export control regulations of the United States with respect to the Licensed Material. Customer acknowledges that it may not re-export or divert the Licensed Material or any related technical information, document or material, or direct derivatives thereof, to any country set forth on the U.S. Department of Commerce's list of State Sponsors of Terror (currently, Cuba, Iran, North Korea, Sudan and Syria), including any future changes to the government's list of State Sponsors of Terror.

12. EQUITABLE RELIEF – The parties recognize that Sections 5, 9, 11 and 13 are necessary for the protection of the business and goodwill of the parties and are considered by the parties to be reasonable for such purpose. The parties agree that any breach of such Sections would cause the other party substantial and irreparable damage and therefore, in the event of any such breach, in addition to other remedies which may be available, the non-breaching party shall have the right to seek specific performance and other injunctive and equitable relief in a court of law.

13. REPORTING, COMPLIANCE & AUDIT– Hexawise reserves the right to gather data on usage of the SaaS Service by Customer, including server IP addresses, email addresses of Users, domain counts, the number of Uses, the quantity/volume of Customer Data, and applications processed and other information deemed relevant, to ensure that the SaaS Service is being used in accordance with the terms of this Agreement. Customer hereby consents to Hexawise gathering and processing such usage information and agrees not to block, electronically or otherwise, the transmission of data required for compliance with this Agreement. Any unauthorized use of the SaaS Service by Customer or other use by Customer in violation of the restrictions contained in this Agreement shall be deemed a material breach of this Agreement. In addition to the foregoing, within ten (10) business days of Customer's receipt of Hexawise's written request, Customer shall provide to Hexawise a written report certifying to Hexawise the number of users of the SaaS Service, the identity of the Users, the total number of Uses, the quantity of Customer Data or applications processed using the SaaS Service, in each case for the time period so specified in Hexawise's written request, together with such other information as may be requested by Hexawise and necessary to confirm Customer's compliance with the terms of this Agreement. The auditing,

reporting and certification rights and obligations set forth in this Section 13(a) shall survive termination of this Agreement for a period of eighteen months.

14. ENFORCEABILITY – If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, void, invalid or illegal, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.

15. ENTIRE AGREEMENT

(a) Customer acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms. Customer and Hexawise further agree that, subject to clause (b) below, this Agreement, together with all Purchase Orders delivered in connection herewith and all exhibits, schedules and annexes hereto, is the complete and exclusive statement of the agreement between Customer and Hexawise and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement, including any shrink-wrap agreements, click-wrap agreements or demo or trial agreements which may accompany or be embedded in the SaaS Service or the Licensed Material or which may have been previously in force between the parties. Subject to clause (b) below, this Agreement may not be amended, modified, supplemented or altered except by a written agreement that is signed by both parties.

(b) UNDER NO CIRCUMSTANCES MAY THE TERMS OF THIS AGREEMENT OR ANY HEXAWISE PURCHASE ORDER BE AMENDED, MODIFIED, SUPPLEMENTED, ALTERED, SUPERSEDED OR REPLACED BY ANY NON-HEXAWISE INVOICE OR NON-HEXAWISE PURCHASE ORDER OR OTHER SIMILAR INSTRUMENT DELIVERED BY CUSTOMER TO HEXAWISE. EACH PARTY ACKNOWLEDGES AND AGREES THAT, SOLELY AS A CONVENIENCE TO CUSTOMER AND ONLY FOR CUSTOMER'S INTERNAL ACCOUNTING PROCEDURES, CUSTOMER MAY DELIVER TO HEXAWISE A CUSTOMER INVOICE OR CUSTOMER PURCHASE ORDER OR OTHER SIMILAR DOCUMENT FOR ANY TRANSACTION CONTEMPLATED HEREUNDER AND THAT NO ACTION BY HEXAWISE, INCLUDING HEXAWISE'S DELIVERY OF THE SAAS SERVICES OR ANY LICENSED MATERIALS OR ACCEPTANCE OF PAYMENT, SHALL BE DEEMED TO BE ACCEPTANCE OF ANY OF THE TERMS OR CONDITIONS CONTAINED IN SUCH CUSTOMER INVOICE OR CUSTOMER PURCHASE ORDER OR OTHER SIMILAR INSTRUMENT AND SUCH TERMS AND CONDITIONS SHALL BE VOID AND OF NO FORCE OR EFFECT, UNLESS ACCEPTED BY HEXAWISE PURSUANT TO A WRITTEN INSTRUMENT SIGNED BY BOTH PARTIES.

16. TRIAL LICENSE

(a) If Customer is evaluating Evaluation Software (as defined below), then only the terms and conditions of this Section 16 (including those Sections of this Agreement incorporated in this Section 16 by reference) will govern Customer's temporary use of such Evaluation Software (and no other terms of this Agreement shall apply to Customer or govern Customer's use of Evaluation Software) and upon purchase of a commercial license or commercial subscription for such Evaluation Software, this entire Agreement, exclusive of this Section 16, shall apply to Customer and govern all use of the SaaS Service and the Licensed Material.

(b) Hexawise is the owner and provider of certain proprietary software and documentation that Customer may request to use, from time to time, on a temporary basis for the sole purpose of testing and evaluating such software prior to purchasing a commercial subscription for such software ("Evaluation Software"). All access and usage of Evaluation Software by Customer requires a temporary User generated username and password ("Trial Registration") and Customer is only permitted to use Evaluation Software during the term identified on Hexawise's website (the "Trial Term").

(c) Evaluation Software is provided to Customer solely for evaluation purposes for Customer's own testing and evaluation purposes (an "Evaluation") and upon Trial Registration Hexawise hereby grants Customer a non-transferable, nonexclusive, limited license to access and use the Evaluation Software for such Evaluation during the period commencing on the date Customer first accesses the Evaluation Software and ending on the expiration of the Trial Term (including any extensions thereof authorized by Hexawise, the "Evaluation Period"). Evaluation Software may be used by Customer solely for Customer's internal evaluation purposes and may not be used for any commercial purpose or any purpose for which Customer charges any third party a fee. Customer agrees not to cause or permit the reverse engineering, disassembly, modification, translation or decompilation of any Evaluation Software. Customer shall not copy the Evaluation Software or create or develop any derivative software based upon the Evaluation Software.

(d) Customer acknowledges that all Evaluation Software incorporates confidential and proprietary information developed or acquired by or licensed to Hexawise and that all results of testing of the Evaluation Software, whether performed by Customer or another third party, are confidential. In no event will Customer publish or disclose the results of any testing or performance specifications of the Evaluation Software without Hexawise's express prior written consent. Customer shall not remove or deface of any confidentiality or proprietary notice placed on the Evaluation Software. The placement of copyright notices on Evaluation Software shall not constitute publication or otherwise impair their confidential nature of such information.

(e) ALL EVALUATION SOFTWARE PROVIDED BY HEXAWISE IS DELIVERED "AS IS, WHERE IS" AND HEXAWISE SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. HEXAWISE DOES NOT WARRANT THAT THE EVALUATION SOFTWARE WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE. UNDER NO CIRCUMSTANCES WILL HEXAWISE OR ITS AUTHORIZED REPRESENTATIVES BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE OR WHETHER BASED ON CLAIMS BY CUSTOMER OR ANY THIRD PARTY, ARISING OUT OF OR RELATED TO CUSTOMER'S USE OF EVALUATION SOFTWARE. IN NO EVENT WILL THE AGGREGATE LIABILITY OF HEXAWISE OR ITS AUTHORIZED REPRESENTATIVES INCURRED IN ANY ACTION OR PROCEEDING RELATING TO CUSTOMER'S USE OF EVALUATION SOFTWARE EXCEED ONE HUNDRED DOLLARS.

(f) The Evaluation and the evaluation license granted under this Section 16 shall automatically terminate immediately upon the earliest of (i) the expiration of the Evaluation Period, (ii) the date upon which Customer purchases a commercial license or commercial subscription for such Evaluation Software and (iii) the date upon which either party notifies the other party of its termination of the Evaluation. Upon expiration of the Evaluation Period or the Evaluation, Customer shall cease using and shall uninstall and destroy the Evaluation Software unless Customer has purchased a commercial license for such Evaluation Software on or prior to such expiration.

(g) Sections 1, 5, 9, 11, 14, 15 and 17(a) through 17(g) of this Agreement shall be deemed incorporated by this reference in this Section 16 and the Evaluation license granted under this Section 16.

17. MISCELLANEOUS

(a) Customer shall not assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder to any other person or entity, whether by contract, merger or operation of the law, without Hexawise's prior written consent. In the event of any merger of Customer or a sale of substantially all of the assets of Customer in which Customer is not the surviving entity, Customer may assign or transfer any licenses granted under this Agreement; provided, that Customer provides Hexawise with written notice of such transfer within thirty days of such merger or sale. Any assignment or delegation in breach of this Section 17(a) shall be void. This Agreement shall be binding upon the parties hereto and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns.

(b) All notices or approvals required or permitted under this Agreement must be given in writing and delivered to the appropriate party at the address set forth in this Agreement or in any Purchase Order delivered in connection with this Agreement.

(c) The waiver of compliance with or breach of any term or condition of this Agreement or the failure of a party to exercise any right under this Agreement shall in no event constitute a waiver as to any other failure to comply or breach, whether similar or dissimilar in nature, or prevent the exercise of any right under this Agreement. Unless otherwise specified herein, the rights and remedies of Hexawise set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it at law or in equity.

(d) THIS AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW RULES. HEXAWISE AND CUSTOMER HEREBY IRREVOCABLY AGREE ON BEHALF OF THEMSELVES THAT THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE FOR ANY LITIGATION ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF SHALL BE IN AN APPROPRIATE FEDERAL OR STATE COURT IN THE STATE OF TEXAS LOCATED IN TRAVIS COUNTY.

(e) Unless otherwise specified herein, the rights and remedies of Hexawise set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it at law or in equity. In the event of Customer's failure to pay any fees set forth in this Agreement or any applicable Order Form, Hexawise shall be entitled to recover its costs and expenses, including but not limited to reasonable attorney's fees, incurred in any collection efforts or legal action.

(f) This Agreement is not intended to be nor shall it be construed as a joint venture, association, partnership or other form of business organization or agency relationship.

(g) Headings used in this Agreement are for reference purposes only and shall not be used to modify the meaning of the terms and conditions of this Agreement. This Agreement may be executed in counterparts, all of which shall constitute one single agreement between the parties hereto.

(h) In consideration of the mutual covenants contained herein, including the rights and licenses granted to Customer herein, the parties hereto do hereby agree that for a period of two years following Customer's most recent purchase of any licenses or services, including Maintenance Service, from Hexawise or its authorized representative, Customer shall not solicit, induce, hire, engage, or attempt to hire or engage any employee of Hexawise, or in any other way interfere with Hexawise's contractual or employment relations with any of its employees, nor will Customer hire or engage or attempt to hire or engage any individual who was an employee of Hexawise at any time during such two-year period.

[*END OF AGREEMENT*]