

Spectades HxGN EAM Cloud

Mobile Applications Terms of Use Policy

Defined terms not explicitly defined herein shall be as defined in the Spectades HxGN EAM Cloud Services Agreement.

1. Definitions

- a) "Apple" refers to Apple, Inc., a California corporation, and its majority-owned affiliates.
- b) "Apple Terms of Use" refers to the then-current additional terms and conditions of Apple (including the App Store Terms of Service and Apple Usage Rules set forth in the Apple App Store) that Authorized Users must accept and agree to prior to using the Application on an Apple device.
- c) "App Store" means the electronic store branded, owned and/or controlled by Apple.
- d) "Documentation" means this Agreement and any other instruments provided by Hexagon, with the Application, together with any instruments, the terms of which are incorporated herein, or in any other Documentation, by reference.
- e) "Device" means any Apple or Android mobile or tablet device or any successor devices.
- f) "Google" refers to Google Inc.
- g) "Google Play" means the electronic store branded, owned and/or controlled by Google.
- h) "Google Terms of Service" refers to the then-current additional terms and conditions of Google (including the Google Play Terms of Service) that Authorized Users must accept and agree to prior to using the Application on an Android device.
- i) "Key" means an authorization code for the purpose of authenticating the Application licensed hereunder.
- j) "Third-Party Content" refers to software source code, software applications, libraries, data, or other materials supplied by Third-Party Providers and utilized in or by the Application.
- k) "Third-Party Provider(s)" refers to those persons or entities, other than Spectades or Hexagon, which have made Third-Party Content available for use by or in the Application. Apple and Google are Third-Party Providers.
- l) "Third-Party Terms" means as applicable, the Apple Terms of Use, the Google Terms of Service, or any other Third-Party Providers that be accepted prior to installation and/or use on a Device.

- 2. **License Grant.** Subject to the terms, conditions and limitations stated in the Agreement, in the Documentation, and, any and all Third-Party Terms, to the extent procured under or included with a Cloud Services subscription Order, Spectades grants Customer a non-exclusive, non-transferable, non-sublicensable, revocable, limited

license to run the Application on a Device that is owned or controlled by Customer or an Authorized User. Customer is not permitted to use the Application for any purpose other than as expressly permitted under this Agreement. Customer may not transfer the Application to another Device. Customer shall use the Application only in a manner consistent with this Agreement, the Documentation, and any Third-Party Terms. Customer may only use the Application to interface with the Cloud Services. Spectades may audit Customer's use of the Application and its compliance with the terms of the Agreement. Any rights not expressly granted in this Agreement are expressly reserved. Unless otherwise licensed, all Applications require a license for each individual Authorized User.

3. **Support Devices.** Not all Applications may be available for Android or Apple Devices. Notwithstanding the foregoing, Spectades shall have no obligation to offer technical support (including without limitation any wireless network connectivity support) in connection with any Device and shall have no liability with respect to the compatibility or performance of any Device in connection with the Application.
4. **Support.** Spectades is solely responsible for providing, and the Third-Party Providers have no obligation to provide, maintenance and support services for the Applications. Spectades does not offer support for the Applications other than, at its sole discretion, provision of updates, patches, bug fixes, and new versions via the Spectades support site, App Store, or Google Play.
5. In addition to the restrictions set out in Section 3 of the Agreement, Customer shall not and shall ensure that its Authorized Users do not use the Application to provide third-party training for Hexagon products. Company shall and shall ensure its Authorized Users comply with applicable Third-Party Terms, if any, when using the Application. Company acknowledges that, in the event of any third-party claim that the Application or Company's or its Authorized Users' possession and use of the Application infringes any third party's intellectual property rights, Hexagon, not a Third-Party Provider, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim, subject to the terms in this Agreement.
6. **Warranty and Disclaimer:** THE APPLICATION IS LICENSED TO CUSTOMER "AS IS," WITHOUT ANY WARRANTY, ESCROW, TRAINING, MAINTENANCE, OR SERVICE OBLIGATIONS WHATSOEVER ON THE PART OF SPECTADES. SPECTADES MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY TYPE WHATSOEVER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE AS TO THE APPLICATIONS. CUSTOMER ASSUME ALL RISKS ASSOCIATED WITH THE USE OF THE APPLICATION, INCLUDING WITHOUT LIMITATION RISKS RELATING TO QUALITY, AVAILABILITY, PERFORMANCE, DATA LOSS, AND UTILITY IN A PRODUCTION ENVIRONMENT. IN PARTICULAR, SPECTADES DOES NOT WARRANT THAT THE APPLICATION WILL BE AVAILABLE UNINTERRUPTED OR PERMANENTLY, AND SPECTADES DRAWS CUSTOMERS ATTENTION TO THE FACT THAT AVAILABILITY IS SUBJECT TO THIRD-PARTY PROVIDERS. ALL CLAIMS ARE SUBJECT TO THE LIMITATION OF LIABILITY STIPULATED BELOW. IF UNDER THE LAW RULED APPLICABLE TO THIS AGREEMENT ANY PART OF THE ABOVE DISCLAIMER OF EXPRESSED OR IMPLIED WARRANTIES IS INVALID, THEN SPECTADES DISCLAIMS EXPRESS OR IMPLIED WARRANTIES TO THE MAXIMUM EXTENT ALLOWED BY SAID LAW.
7. **Product Claims:** To the minimum extent required by applicable law, Spectades, not a Third-Party Provider, is responsible for addressing any claims raised by Spectades or any third-party relating to the Application or Customer's possession and/or use of the Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

8. **Privacy:** Customer, on behalf of itself and its Authorized Users, acknowledges, consents, and agrees that Spectades may access, preserve and disclose information related to Customer's and the Authorized User's use of the Application if required to do so by law or due to a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce this Agreement; (c) respond to claims asserted by third parties; (d) respond to Customer requests for customer service; or (e) protect the rights, property, or safety of Hexagon, its users, or the public.

9. **Liability: CUSTOMER ASSUMES FULL AND COMPLETE LIABILITY FOR CUSTOMER'S AND ITS AUTHORIZED USERS' USE OF THE SOFTWARE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THIRD-PARTY PROVIDERS BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE OR PRODUCTION, LOSS OF REVENUE OR PROFIT, LOSS OF DATA, LOSS OF BUSINESS INFORMATION, BUSINESS INTERRUPTION, CLAIMS OF THIRD PARTIES OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THIS AGREEMENT AND/OR THE USE OF OR INABILITY TO USE THE APPLICATION, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

10. **Changes:** Third-Party Providers may at any time modify the Third-Party Terms, and Third-Party Providers may each impose new or additional terms and conditions on Spectades, Customer and Authorized Users relating to the Application. Any such changes will be effective immediately and be deemed incorporated into this Mobile Agreement and the Third-Party Terms, as applicable. Continued use of the Application by Customer and Authorized Users will constitute acceptance of these changes.

11. **Miscellaneous:**
 - a) Customer and Spectades agree that: (a) this Agreement is between Spectades and Customer, and that Apple and Google are not a party to this Agreement; (b) that Spectades is solely responsible for the Applications and the materials thereof; (c) that Apple, Google and their respective subsidiaries, are third-party beneficiaries of this Agreement; and d) Apple and Google will have the right (and will be deemed to have accepted the right) to enforce this Agreement to the extent applicable to their Intellectual Property Rights against Customer as a third party beneficiary hereof.

 - b) Apple and App Store are trademarks of Apple Inc., registered in the U.S. and other countries. Android is a trademark of Google Inc. Any other trademarks identified herein are the property of their respective owners.