



Axe Products Terms of Use

Note: If you or your organization has a previously negotiated agreement with Deque related to Axe products, the terms of that agreement will take precedence over these Terms of Use.

If you or your organization have procured the use of Products under an agreement with a reseller or other third party, (a) these Terms of Use will apply with respect to the Products notwithstanding anything additional, different, or to the contrary in any agreement with such reseller or other third party and (b) the provisions of Sections 9 and 10(a) will not apply to such reseller or other third party arrangements.

These Terms of Use, together with the information about scope of use, pricing, payment, and other matters contained in the menu, presentation, click-through process, or order form with which these Terms of Use are associated (the "Specific Terms"), constitute an agreement between Customer and Deque. "Deque" will mean Deque Systems, Inc., a Virginia corporation, unless the Specific Terms identify a different Deque entity, in which case "Deque" will mean that entity. The Terms of Use and the Specific Terms are the "Terms."

These Terms of Use apply to the use of the Axe products (each a "Product"). A Product will be either Software or a SaaS Service. "Software" means a software product identified as such in the Specific Terms or provided by Deque for local use in connection with the Product(s) and "SaaS Service" means the provision of the service specified in the Specific Terms as such at the Demarcation Point (defined below) with the functionality stated in the user manuals that Deque makes available to its users generally for the Product as the "Documentation."

"Customer" means (a) where these Terms of Use are associated with an executed order form, the person or organization named in the order form, otherwise (b) the individual or business organization using the Product. If an individual receives or uses the Product for, or accepts the Terms on behalf of, an organization, that organization is also "Customer" and the individual so receiving or using the Terms and/or the Product represents and warrants to Deque that the individual is authorized to do so for the organization and to bind the business organization to the Terms.

Unless the Specific Terms state that multiple natural persons (each an "Authorized User") may use the Product, these Terms provide for use of the Product by only one named natural-person Authorized User.

1. PROVISION AND USE OF PRODUCT.

- (a) **Software License.** Where Specific Terms specify a Software license or where Deque provides Software for local use in conjunction with other Product(s):
 - (i) Deque grants to Customer a non-exclusive, non-refundable, non-transferable right:
 - (A) To install, access, and use the Software during the term stated in the Specific Terms (or, if no term is stated, one year) according to the Documentation and as provided in these Terms; and
 - (B) To reproduce the Documentation for internal Customer use only.
 - (ii) Customer may access and use the Software solely for Customer's internal business purposes.
 - (iii) The Software is licensed by Deque, not sold. Deque reserves to itself all rights in the Software and the Documentation that are not expressly granted by these Terms.

- (b) **SaaS Service.** Where the Specific Terms specify that Deque will provide the Product as a SaaS Service, Deque will, during the term stated in the Specific Terms (or, if no term is stated, one year) provide to Customer the SaaS Service at the outermost point on Deque's firewall with the public Internet (the "Demarcation Point"), functional according to the Documentation and according to the then-current Service Level Agreement available at <https://www.deque.com/legal/software-services-and-service-levels>.

2. RESTRICTIONS. Customer may not, and may not allow any third party to:

- (a) Copy the Product except, in the case of Software, as reasonably necessary to deploy the Software as contemplated by these Terms or for backup, archival, and/or disaster recovery purposes;
- (b) Remove from the Product or Documentation any product identification or proprietary rights notices;
- (c) Modify or create derivative works of the Product (except that Customer's code written to published APIs for the Product will not be deemed a derivative work);
- (d) Copy any Product except to, in the case of Software, make a backup that is never used in production when the primary copy of the Software is available to Customer for use;
- (e) Decompile, disassemble, decrypt, or reverse engineer the Product or attempt to derive the source code for any part of the Product;
- (f) Circumvent any technical limitations of the Product or any restriction contained in an Order Document, such as with respect to Authorized Users.
- (g) Otherwise utilize any equipment, device, software, or other means to (or de-signed to) circumvent or remove any form of technical protection used by Deque in connection with the Product, in each case including, but not limited to, utilizing any equipment, device, software, or other means to (or designed to) circumvent or remove any means of reporting usage data or any tool or technical protection measure provided or made available by Deque for managing, monitoring, or controlling Installation of, or access to, a Product;
- (h) Encumber any right in any Product or Documentation, or other materials or any right under these Terms in favor of a third party, whether by agreement, operation of law, or otherwise;
- (i) Sell, lease, lend, or sublicense the Product or Documentation to any third party;
- (j) Use the Product for the benefit of any third party other than a person that is controlled by, controls, or is under common control with, Customer (a Customer "Affiliate"), whether in a timesharing or service bureau model or otherwise;
- (k) Publish or disclose to any third party the results of any benchmark test or other evaluation performed on the Product that compares the Product to any good, service, or software of a competitor of Deque;
- (l) Use the Product for the development of any good, service, or software that competes with any good, service, or software of Deque; or
- (m) Permit any person who is a competitor of Deque in the market for accessibility services or software to exercise any privilege of an Authorized User.

3. CUSTOMER RESPONSIBILITIES.

Customer shall be solely responsible for providing, maintaining, and ensuring its ability to access the Product, including, where applicable, securing Internet access to the Demarcation Point. Customer will use commercially reasonable efforts to prevent unauthorized access to or use of the Product.

4. DATA; CUSTOMER WARRANTIES.

- (a) **Customer Data.** Where the Product permits or requires, Customer may upload Customer Data for use with one or more Products. Customer grants to Deque a perpetual, non-exclusive, non-sub-licensable, non-transferable license to capture, copy, store, transmit, maintain, access, and display the Customer Data as necessary in order to perform under these Terms. "Customer Data" means data, information or material uploaded or routed to the Product, transmitted using the Product, or otherwise provided or made available to Deque in any medium by Customer or third parties in connection with use of the Product, together with any derivative works made therefrom, and shall include data, information, or material relating to accessibility testing, results of accessibility test procedures, web site metrics, and related items. Customer Data does not include Restricted Data nor Personal Data.
- (b) **Customer Warranties.** Customer represents and warrants that:
 - (i) Customer has all rights in the Customer Data (including, but not limited to, personal data included in the Customer Data) necessary to process such Customer Data using the Product and to grant to Deque the rights that Customer grants in the Terms;
 - (ii) No consent, approval, authorization, permission, ratification, or waiver from, notice to, or registration or filing with, any third party is required for the execution, delivery and performance of the Terms by Customer; and
 - (iii) Neither the agreement to the Terms by Customer nor Customer's performance under the Terms does or will (with or without notice or lapse of time or both) (i) contravene, conflict with or result in a violation of any law or any governmental order to which Customer is subject, or (ii) contravene or conflict with, result in any breach of, or constitute a default under any contract or arrangement to which Customer is a party.
- (c) **Responsibility for Customer Data.** Customer is solely responsible for the accuracy, quality, integrity, reliability and appropriateness of the Customer Data;
- (d) **Personal Data.** "Personal Data" means information that both (i) relates to an identified or identifiable natural person, where an "identifiable natural person" is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person and (ii) is protected, and/or its use is restricted, as such by applicable law. If and when Customer provides, or causes or allows to be provided, to Deque Personal Data ("Provided Personal Data"), Customer represents and warrants that Customer has all necessary rights in Provided Personal Data (e.g., consent, legitimate basis, derogation, exemption, etc.) necessary to provide the Provided Personal Data to Deque and for Deque to process such Provided Personal Data as reasonably necessary to

perform Services under these Terms using such Provided Personal Data. Customer will provide to Deque no Personal Data that is not necessary for Deque's performance under these Terms. Deque will use any Provided Personal Data solely for the purposes of performance under these Terms and will comply with all law applicable to Deque that regulates Personal Data.

- (e) **Restricted Data.** "Restricted Data" means Personal Data that is "sensitive personal data" under applicable law or that applicable law provides protections and/or remedies that are in excess of those that apply to other personal data. The term includes, but is not limited to, nonpublic Personal Data (as that term is defined by the Financial Services Modernization Act of 1999), protected health information (as that term is defined by the Health Insurance Portability and Accountability Act of 1996) Deque's Software or SaaS Services do not require that Deque possess or use Restricted Data. Customer will not make available to Deque any Restricted Data and Customer will prevent Deque from being exposed to any Restricted Data in the course of Deque's performance under these Terms.

5. **THIRD-PARTY PLATFORMS.**

- (a) **Platform Integration.** When a Product is accessed through third-party platforms such as including Slack and Microsoft Teams (each a "Platform"), the following terms apply.
 - (i) The Product operates as an integrated application within such Platforms and Customer access is facilitated through the Platform's infrastructure, not through direct access to Deque's systems;
 - (ii) Data processing and user authentication may occur through the Platform's systems in addition to Deque's systems;
 - (iii) The scope of Customer's usage rights and restrictions set forth in these Terms shall apply regardless of the method of access, whether direct or through Platform integration;
- (b) **Third-Party Platform Dependencies.**
 - (i) Use of the Product through Platform integrations is subject to the availability, functionality, and terms of service of such Platforms;
 - (ii) Customer and its users are also subject to the applicable Platform's privacy policies, terms of service, and acceptable use policies;
 - (iii) Customer acknowledges that Deque has no control over Platform availability, security measures, or policy changes;
 - (iv) Deque's performance obligations under these Terms may be affected by Platform limitations, outages, or modifications; and
 - (v) Customer must maintain appropriate Platform subscriptions, permissions, and compliance with Platform requirements necessary for Product access.
- (c) **Security & Compliance for Platform Integrations.** When accessing the Product through Platform integrations:
 - (i) Data transmitted through or stored by Platforms is additionally subject to such Platform's security measures and compliance frameworks;

- (ii) Customer must configure Platform security settings appropriately for its requirements;
 - (iii) Incident response procedures may require coordination between Deque and the applicable Platform; and
 - (iv) Customer acknowledges that certain compliance certifications or security measures may apply differently in Platform-integrated environments compared to direct SaaS access.
- (d) **Data Processing Exception for Platform Integrations.** When a Product is accessed through Platform integrations:
- (i) Customer Data may be transmitted through, temporarily stored on, or processed by Platform infrastructure in addition to Deque's systems;
 - (ii) Data residency and processing locations may include both Deque's designated servers and the Platform's global infrastructure, subject to the Platform's data residency policies;
 - (iii) Certain metadata, user identifiers, and interaction data may be shared with or accessible to the Platform as necessary for integration functionality;
 - (iv) Deque will process Customer Data in accordance with these Terms, while Customer acknowledges that Platform processing is governed by the Platform's own data processing terms; and
 - (v) Customer must understand and comply with any data residency, cross-border transfer, or data localization requirements that may apply to data processed through Platform integrations.

6. **DEQUE WARRANTIES.**

- (a) Deque warrants that, During the Subscription Period (as defined in Section 10), each respective Product will function in all material respects as described in Deque's then-current Documentation, therefore.
- (b) DEQUE MAKES NO WARRANTY OTHER THAN THE WARRANTY STATED ABOVE. DEQUE DISCLAIMS ALL OTHER WARRANTIES, AND PROVIDES ALL GOODS, SERVICES, AND SOFTWARE AS-IS AND WITH ALL FAULTS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH DEVELOPER. DEQUE EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PURPOSE, NON-INTERFERENCE, AND NON-INFRINGEMENT.
- (c) DEQUE DOES NOT REPRESENT OR WARRANT THAT THE USE OF ANY SOFTWARE, DOCUMENTATION, OR ANY OTHER GOOD, SERVICE, OR SOFTWARE PROVIDED BY DEQUE WILL RENDER ANY WEBSITE, GOOD, SERVICE, OR SOFTWARE APPROPRIATE OR COMPLIANT FOR USE BY ANY PARTICULAR PERSON FOR ANY PARTICULAR PURPOSE OR WITH ANY PARTICULAR LAW OR REGULATORY REGIME.
- (d) The Product operates utilizing the Internet, which is not under the control of Deque, and which is inherently insecure. Deque makes no warranties, representations, or guarantees of any kind, express, implied, statutory, or otherwise, oral or written, with respect to the performance or security of the Internet.

7. CONFIDENTIALITY.

- (a) **“Confidential Information” Defined.** “Confidential Information” of a party means any information belonging to, or held by, the party, whether fixed in a tangible medium or otherwise, that is:
 - (i) Not readily ascertainable by proper means by the public; and
 - (ii) The subject of commercially reasonable efforts by the party under the circumstances to maintain as confidential.
- (b) **Confidentiality Generally.** Each party, as a receiving party, will do the following things related to the Confidential Information of the other party.
 - (i) Prevent the disclosure of the Confidential Information by the receiving party and each of the receiving party’s employees, agents, and/or professionals to any third party other than as permitted under these Terms.
 - (ii) Use, and permit the use of, the Confidential Information only for the purposes of providing, or enjoying the benefit of, the goods, services, and/or software provided for in these Terms (the “Purpose”).
 - (iii) Disclose the Confidential Information only to such of the receiving party’s employees, agents, and professionals as have a bona fide need to possess or know the Confidential Information in the course of accomplishing, or advising the disclosing party regarding, the Purpose.
 - (iv) Cause each employee, agent, or professional to whom the receiving party discloses the Confidential Information to be bound by an obligation of confidentiality that is at least as rigorous as the obligations contained in these Terms. Each professional, such as a lawyer or an accountant, actually retained by the receiving party in a professional-client relationship will be deemed under an adequate obligation of confidentiality for the purposes of these Terms so long as the law recognizes an obligation of confidence actionable by the receiving party under law without a separate contractual obligation.
 - (v) Return or destroy all written or other tangible copies of Confidential Information in the receiving party’s possession or direct or indirect control, including all extracts and copies thereof, within a reasonable time after, and in accordance with, the disclosing party’s request.
- (c) **Exceptions to Confidentiality and Use Restrictions.** Nothing in these Terms will prevent the receiving party from disclosing or using Confidential Information to the extent that:
 - (i) It is or becomes readily ascertainable by proper means by the public without any breach of a confidentiality obligation of the receiving party;
 - (ii) It is received from a third party that is not under an obligation of confidentiality of which the receiving party knew or had reason to know;
 - (iii) It was independently developed by the receiving party without the use of the Confidential Information; or
 - (iv) It is required by law to be disclosed, provided that the receiving party provides to the disclosing party as much notice as is practicable under the circumstances of such requirement prior to disclosure and provides to the disclosing party, at the

disclosing party's expense, such reasonable assistance as the disclosing party requests in seeking confidential treatment, protective orders, nondisclosure, and/or similar measures.

- (d) **Injunctive Relief.** Because unauthorized use or disclosure of Confidential Information might result in immediate and irreparable injury to the disclosing party for which monetary damages might not be adequate, in the event that the receiving party or any officer, director, employee, agent, professional, or subcontractor of the receiving party uses or discloses Confidential Information or, in the disclosing party's reasonable opinion, any such person is likely to use or disclose Confidential Information in breach of the receiving party's obligations under these Terms, the disclosing party will be entitled to seek equitable relief, including temporary and permanent injunctive relief and specific performance. The disclosing party will also be entitled to recover any pecuniary gain that the receiving party realizes from the unauthorized use or disclosure of the disclosing party's Confidential Information. The rights in this Section 7(d) are in addition to any other rights of the disclosing party under these Terms, at law, or in equity.
- (e) **Duration of Confidentiality Obligations.** The confidentiality obligations under these Terms will continue after disclosure of each item of Confidential Information for the longer of:
 - (i) The time during which the Confidential Information remains a trade secret (as that term is defined in the Uniform Trade Secrets Act) of the disclosing party; or
 - (ii) Five (5) years after the termination of these Terms.

8. LIMITATION OF LIABILITY.

EXCEPT IN THE CASE OF BREACH BY CUSTOMER OF THE RESTRICTIONS IN SECTION 2, OR MISAPPROPRIATION BY EITHER PARTY OF THE PROPRIETARY RIGHTS OF THE OTHER PARTY:

- (a) THE LIABILITY OF ONE PARTY TO THE OTHER UNDER THESE TERMS WILL NOT EXCEED TO AN AMOUNT EQUAL TO THE AMOUNTS PAID AND/OR PAYABLE UNDER THE TERMS DURING THE 12 MONTHS PRECEDING THE BREACH (OR, IF 12 MONTHS HAVE NOT BY THEN PASSED, AN AMOUNT EQUAL TO THE AMOUNTS THAT WOULD HAVE BEEN PAID AND/OR PAYABLE DURING THE FIRST 12 MONTHS UNDER THE TERMS HAD BOTH PARTIES FULLY PERFORMED); and
- (b) NEITHER PARTY SHALL HAVE LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THESE TERMS OR OTHERWISE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- (c) DEQUE SHALL NOT BE LIABLE FOR LOSS OF OR DAMAGE TO RECORDS OR DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES, OR TECHNOLOGY,.

9. FEES.

- (a) Customer will pay the fees stated in the Specific Terms. Where Customer provides a credit card, ACH authorization, or similar means of payment, Customer authorizes Deque to charge fees against those payment methods, including, but not limited to, for renewals. All credit card payments will be subject to a 4% processing fee.

- (b) If Customer fails to timely pay any amount due under the Terms and such failure continues after Deque has given notice (which notice may be by any means reasonably calculated to give to Customer actual notice), Deque may charge, and Customer will pay, late fees that are the lesser of 1% per month or the maximum rate permitted by law.
- (c) Fees are exclusive of any tax(es). Customer shall be responsible for, and shall pay or reimburse Deque for, any and all taxes other than taxes on Deque's income, as such. If a claim is made against Deque for taxes with respect to which Customer is liable for a payment or indemnity hereunder, Deque shall promptly notify Customer of such claim; provided however, that failure to give notice will not relieve Customer of its obligations hereunder, unless and except to the extent that (i) such failure increases the amount for which Customer would have been liable in the absence of such failure, or (ii) such failure results in the imposition of, or an increase in the amount of, any penalties, interest, or other additions to tax that is the subject of such claim. Customer may, in good faith, with due diligence and at its expense, contest the validity, applicability, or amount of such taxes. Unless otherwise permitted by law or by agreement of the parties, such contest will be coordinated by Deque, and Deque agrees to make good faith efforts to contest such claim in cooperation with Customer and in accordance with Customer's reasonable requests and directions. If Deque receives any refund of a tax for which Customer has provided payment hereunder, Deque shall promptly, but in any event within 30 days of receipt of such refund, remit such refund to Customer, together with any interest refunded on such amount.

10. SUBSCRIPTION PERIOD.

- (a) The term of the agreement consisting of the Terms is initially the period stated in the Specific Terms or, if no period is stated in the Specific Terms, one year (in either case, the "Initial Subscription Period"). If Customer does not, on or before the date that is 60 days prior to the end of the then-current Subscription Period (as defined below) give to Deque notice of its intent not to renew at the end of the then-current period (the Initial Subscription Period or a Renewal Subscription Period), the term of the agreement will automatically renew for an additional one-year period (each a "Renewal Subscription Period" and the Initial Subscription Period, together with the Renewal Subscription Period(s), being the "Subscription Period").
- (b) In addition to any other right of Deque, Deque may terminate the agreement represented by these Terms at any time without cause upon 30 days' notice to Customer and may terminate the agreement represented by these Terms immediately upon notice for (a) nonpayment of any amount due or any other breach by Customer of the Terms. Termination by Deque is not an exclusive remedy.

11. GENERAL PROVISIONS.

- (a) **Force Majeure.** If the performance of any part of the Terms (other than payment of amounts due from Customer) by either party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, unusually severe weather, riot, fire, judicial or governmental action, labor dispute, act of God, act of terrorism, or any other cause beyond the control of either party, that party shall be excused from performance to the extent that it is prevented, hindered or delayed by such causes.
- (b) **Governing Law; Venue.** Jurisdiction and Venue. If Customer is domiciled: (i) in Europe, the Middle East, or Africa, these Terms is governed by the laws of The Netherlands, with

the jurisdiction and venue for actions related to these Terms in the courts of The Netherlands, or (ii) elsewhere, these Terms is governed by the laws of the Commonwealth of Virginia with the jurisdiction and venue for actions related to these Terms exclusively in the courts of Virginia or in the United States District Court for the in the state and United States District Court for the Eastern District of Virginia. Notwithstanding the foregoing, the United Nations Convention on Contracts for International Sale of Goods and the Uniform Computer Information Transactions Act are specifically excluded from application to these Terms

- (c) **Assignment.** Neither party may assign any right or obligation under these Terms, except that either party may assign all, but not less than all, of its rights and obligations under these Terms to any affiliate of the party or to a purchaser or other successor to all or substantially all of the party's business associated with these Terms (except that Customer may not assign any right or obligation under these Terms to a competitor of Deque in the market for accessibility services or software), provided only that (i) the assignee possesses financial and technical wherewithal necessary to fully perform under these Terms, (ii) the assignor gives to the other party notice of the assignment on or before the time at which the assignment is effective, (iii) the assignment does not, by its nature, materially increase the other party's obligations or reduce the other party's rights, (iv) the assignment does not result in a competitor of the other party having access to the Confidential Information, goods, services, or software of the other party, and (v) the assignee assumes in writing all of the assignor's rights and obligations under these Terms after the effective time of the assignment. Upon any permitted assignment by a party of its rights and obligations under these Terms, the assigning party will have no liability for acts or omissions of the assignee after the effective time of the assignment..
- (d) **Notice.** Any notice required or permitted to be given under the Terms must be in writing and will be deemed effective (a) if given by personal delivery, upon such personal delivery, (b) if given by nationally-recognized courier or mail service (in either case that has realtime or near-realtime tracking), at the time that the notice is delivered (or an attempt is made to deliver the notice, regardless of whether refused) to the receiver's premises according to the tracking records of the courier or mail service, or (c) if by e-mail, when sent, provided that sender receives no indication within four hours after sending that the e-mail message failed to reach the receiver. If a receiver knowingly or intentionally renders a fax device or e-mail system incapable of receiving notice by that means, any notice sent by fax or e-mail respectively will nevertheless be effective upon sending.
 - (i) The addresses for notices to Deque are:
Deque Systems, Inc.
13800 Coppermine Rd
Herndon, VA 20171
with copy to: general.counsel@deque.com;
 - (ii) The addresses for notice for Customer are the most recent Customer information on file with Deque.

Either party may change its address for notice by notice to the other party.

- (e) **Audit Rights.** Upon Deque's written request at any time during the Term, Customer shall provide to Deque a signed certification (i) verifying that the Product is being used in accordance with these Terms; and (ii) listing the number of users, and any other

information reasonably requested by Deque. Deque may, at Deque's expense, and not more than once annually, audit Customer's use of the Product and compliance with these Terms. The audit will be conducted during business hours and will not unreasonably interfere with Customer's business activities. Customer shall provide Deque or its auditor with all reasonable information and assistance (including copies of related software) required to enable Deque to determine whether Customer is in compliance with these Terms. If the audit reveals that Customer has underpaid fees to Deque, Customer will be invoiced for the underpaid fees based upon Deque's price list at the time the fees would have otherwise been incurred.

- (f) **Successors and Assigns; No Third-Party Beneficiaries.** The Terms are legally binding upon, and inure to the benefit of, the parties and their permitted successors and assigns. No third party is intended to benefit from, nor may any third party seek to enforce, any of the terms and conditions of the Terms, including, but not limited to, any third party with whom Customer has an employment or separate contractual relationship.
- (g) **Relationship of the Parties.** Nothing contained in the Terms shall be deemed to create an association, partnership, joint venture, or relationship of employment, principal and agent or master and servant between the parties, or to grant either party the right or authority to assume, create or incur any liability or obligation of any kind, express or implied, against, in the name of, or on behalf of, the other party.
- (h) **Waiver.** The failure of a party to enforce any of the provisions of the Terms, or to exercise any option provided in the Terms, or to require performance by the other party of any of the provisions in the Terms, is not a present or future waiver of such provisions and does not affect the validity of the Terms or the right of the party to enforce every provision of the Terms thereafter. The express waiver (whether one or more times) by a party of any provision, condition or requirement of the Terms does not constitute a waiver of any future obligation of the other party to comply with such provision, condition, or requirement.
- (i) **Severability.** If any provision of the Terms is invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Terms shall remain enforceable.
- (j) **Survival.** The terms and conditions that by their sense and context are intended to survive termination or expiration hereof shall so survive.
- (k) **Remedies Cumulative.** Deque's remedies are cumulative. No exercise by Deque of a particular remedy will be deemed an exclusive election of that remedy.
- (l) **Compliance with Laws.** In performing under, and/or receiving the benefit of, these Terms, each party will comply with all law that applies to the party. For the avoidance of doubt, nothing in these Terms requires that (a) a party comply with law that applies to the other party but not to the first party, as such, or (b) a party causes the other party to be or remain in compliance with law that applies to the other party.

- (m) **U.S. Government Users.** The Products are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Service" and "Commercial Computer Service Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Service and User Documentation are being provided to U.S. Government end users (1) only as a Commercial Item, and (2) with only those rights as are granted to all other end users pursuant to the terms and conditions of this these Terms.
- (n) **Export Compliance.** All physical goods provided by Deque hereunder shall be delivered to Customer on a F.O.B. (UCC 2-319) shipping point basis. All electronic resources will be delivered by electronic posting for download. Unless an appropriate license, exemption, or similar authorization has been duly obtained, Customer will not, nor will Customer authorize or permit Customer's employees, agents, successors, or any other person to, export or re-export the Product, the Documentation, or any services provided under the Terms to any country identified as a prohibited destination by any applicable laws or regulations. Furthermore, Customer will undertake and perform all 'denied party screening' or similar obligations imposed by or arising under applicable laws or regulations. To the extent applicable, the commodities, technology, and/or software delivered under the Terms will be/were exported from the United States or other country of origin in accordance with the United States Export Administration Regulations or other export regulations applicable in the jurisdiction of origin. Any diversion contrary to United States or other applicable law is prohibited.
- (o) **Entire Agreement.** The Terms constitutes the entire agreement between Deque and Customer with respect to the subject matter of the Terms and there are no representations, understandings, or agreements about the subject matter hereof that are not fully expressed in the Terms.