

**Appendix 9
Software and EULA**

Axon Cloud Services Terms of Use Appendix

For the purposes of this agreement, the below wording shall be read as follows: Agency will be read as Authority and Axon as Supplier, with exception to Axon products/services and trademarks names, that will remain the same.

1 **Definitions.**

"Agency Content" is data uploaded into, ingested by, or created in Axon Cloud Services within Agency's tenant, including media or multimedia uploaded into Axon Cloud Services by Agency. Agency Content includes Evidence but excludes Non-Content Data.

"Evidence" is media or multimedia uploaded into Axon Evidence as 'evidence' by an Agency. Evidence is a subset of Agency Content.

"Non-Content Data" is data, configuration, and usage information about Agency's Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Agency Content.

"Axon Cloud Services" means Axon's web services for Axon Evidence, Axon Records, Axon Dispatch, and interactions between Evidence.com and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.

"Axon Devices" means all hardware provided by Axon under this Agreement.

"Quote" means an offer to sell and is only valid for devices and services on the quote at the specified prices. Any terms within Agency's purchase order in response to a Quote will be void. Orders are subject to prior credit approval. Changes in the deployment estimated ship date may change charges in the Quote. Shipping dates are estimates only. Axon is not responsible for typographical errors in any offer by Axon, and Axon reserves the right to cancel any orders resulting from such errors.

"Services" means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.

2 **Subscription Term.** For Axon Evidence subscriptions, including Fleet 2 Unlimited, the subscription begins after shipment of the applicable Axon Device. If Axon ships the Device in the first half of the month, the start date is the 1st of the following month. If Axon ships the Device in the second half of the month, the start date is the 15th of the following month. For phased deployments, the start date begins on shipment of phase one. For purchases solely of Axon Evidence subscriptions, the start date is the Effective Date. The Axon Evidence subscription term ends upon completion of the Axon Evidence subscription stated in the Quote (**"Axon Evidence Subscription Term"**).

Access. Upon Axon granting Agency a subscription to Axon Cloud Services, Agency may access and use Axon Cloud Services to store and manage Agency Content. Agency may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Agency may access and use Axon Evidence only to store and manage [REDACTED]

4 **Agency Owns Agency Content.** Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content are not business records of Axon. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will have limited access to Agency

storage. Agency Content in archival storage will not have immediate availability and may take up to 24 hours to access.

9 **Location of Data Storage.** With the exception of Axon's sub processors as enumerated at the

[REDACTED] Axon may not ordinarily transfer any Agency Content to third party subcontractors for storage. With the exception of the Sub-processors of the Authorised Subcontractor, Axon may only transfer Agency Content to third party subcontractors for storage on a case by case basis in circumstances where it has first obtained express written approval to do so from the Agency and the Agency is satisfied that each prospective third party subcontractor is capable of meeting all requisite security requirements. In circumstances where such express approval has been obtained, Axon will determine the locations of data centres for storage of Agency Content provided at all times that the relevant data centres are located within the UK/EU. Ownership of Agency Content remains with the Agency.

10 **Suspension.** Axon may temporarily suspend Agency's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Agency or end user's use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent.

Agency remains responsible for all fees incurred through suspension. Axon will not delete Agency Content because of suspension, except as specified in this Agreement.

11 **Axon Cloud Services Warranty.** Axon disclaims any warranties or responsibility for data corruption or errors before Agency uploads data to Axon Cloud Services.

12 **Axon Cloud Services Restrictions.** Agency and Agency end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:

- 12.1 copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;
- 12.2 reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same;
- 12.3 access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
- 12.4 use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;
- 12.5 access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;
- 12.6 remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Cloud Services; or
- 12.7 use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; to store or transmit material in violation of third-party privacy rights; or to store or transmit malicious code.

13 **Payment.** Axon invoices upon delivery for hardware and annually in advance for software including Axon Cloud Services. Agency will pay invoices without setoff, deduction, or withholding.

14 **After Termination.** Subject at all times to the provisions of the Home Office/ NCPE (2005) Management of Police Information Code of Practice and the College of Policing (2013) APP on Information Management and the Criminal Procedures Information Act 1996, Axon will not delete Agency Content for 180-days following termination. During these 180-days, Agency may retrieve Agency Content only if Agency has paid all amounts due. There will be no functionality of Axon Evidence during these 180-days other than the ability to retrieve Agency Content. Agency will not incur additional fees if Agency downloads Agency Content from Axon

Axon Public Safety UK Ltd Hardware Warranty, Limitations and Release
for Law Enforcement CEW Products and On-Officer Cameras
(Effective December 5, 2018)

The following Axon Public Safety UK Ltd (Axon) warranty provisions are applicable on all sales or transfers of Axon Law Enforcement Products, including TASER conducted energy weapons (CEWs), on-officer audio/video cameras and related accessories.¹ The term "Purchaser" means any purchaser, possessor, or user of the Axon brand products. BY USING THE AXON PRODUCT YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THE WARRANTY AS SET OUT BELOW.

Manufacturer's Limited Warranty²

Axon warrants that its Law Enforcement Hardware Products³ are free from defects in workmanship and materials for a period of ONE (1) YEAR from the date of receipt. CEW cartridges and Smart cartridges that are expended are deemed to have operated properly.⁴ Axon-Manufactured Accessories⁵ are covered under a limited 90-DAY warranty from the date of receipt. Axon warrants that its Axon Signal Sidearm is free from defects in workmanship and materials for a period of 30-MONTHS from the date of receipt. Non-Axon manufactured accessories are covered under the applicable manufacturer's warranty. In the event any country imposes a longer express warranty term than that described in this warranty document, then the country's term will take precedence.

If a valid warranty claim is received by Axon within the warranty period, Axon agrees to repair or replace the product which Axon determines in its sole discretion to be defective under normal use, as defined in the product instructions. Axon's sole responsibility under this warranty is to either repair or replace with the same or like product, at Axon's option.

Optional Extended Hardware Warranty for Axon Flex, Axon Flex 2, Axon Body, Axon Body 2, Evidence.com Dock, Axon Dock, TASER CAM HD, X2, X26, X26P, and TASER 7

The optional extended warranty, when available, may only be purchased at the time of product point of sale. The extended warranty runs from the date of receipt of the extended warranty through the balance of the 1-year limited warranty plus the term of the extended warranty measured after the expiration of the 1-year limited warranty. Purchaser may not buy more than one extended warranty for any one specific product. The extended warranty does not cover user-removable battery replacement, abuse, intentional or deliberate damage to the product, or force majeure during the extended warranty period.^{6,7} For customers who purchase an extended warranty Axon warrants it will repair or replace the Axon product, which fails to function for any reason not excluded by this warranty, during the extended warranty period with the same or like product, at Axon's option. Purchaser may not buy a new extended warranty for any replacement or repaired product which is replaced or repaired under the extended warranty.

Exclusions and Limitations

A replacement product will be new or like new and have the remaining warranty period of the original product or 90 days from the date of replacement or repair, whichever period is longer. When a product or part is exchanged, any replacement item becomes Purchaser's property and the replaced item becomes Axon's property. After the warranty period, Axon may, at its sole option, repair or replace a Axon product for a fee.

This warranty does not apply and Axon will not be responsible for any loss, data loss, damage, or other liabilities arising from: (a) damage from failure to follow instructions relating to the product's use; (b) damage caused by use with non-Axon products or from the use of cartridges, batteries or other parts, components or accessories that are not manufactured or recommended by Axon; (c) damage caused by abuse, misuse, intentional or deliberate damage to the product, or force majeure; (d) damage to a product or part that has been repaired or modified by persons other than Axon authorized personnel or without the written permission of Axon; or (e) if any Axon serial number has been removed or defaced.

To the extent permitted by law, this warranty and the remedies set forth above are exclusive and in lieu of all other warranties, remedies, and conditions, whether oral or written, statutory, express or implied, as permitted by applicable law. Axon specifically disclaims any and all statutory or implied warranties, including without limitation, warranties of merchantability, design, fitness for a particular purpose, arising from a course of dealing, usage or trade practice, warranties against hidden or latent defects, and warranties against patent infringement. If statutory or implied warranties cannot be lawfully disclaimed, then all such warranties are limited to the duration of the express warranty described above and limited

¹ The warranty does not apply to software or services offered for, by, on, or through the Axon.com or Evidence.com websites. This warranty only applies to hardware.

² A product's estimated useful life or expiration date may not be the product's warranty expiration date.

³ Axon Law Enforcement Hardware Products include TASER X2, X26, X26P, and TASER 7 CEWs, Stimulaton Handles assembled by TASER, TASER CAM and TASER CAM HD recorders, CEW cartridges, and Smart cartridges, TASER 7 Dock and core, TASER 7 battery, Axon Flex camera (including the universal magnetic clip),

Axon Flex 2 camera, Axon Body 2 camera, Axon Fleet camera, Axon Fleet 2 camera, Evidence.com Docks, and Axon Docks.

⁴ Broken blast doors are not covered under Axon's limited warranty.

⁵ Axon-Manufactured Accessories include, but are not limited to: batteries; battery chargers; carrying cases; cables; docking bars; USB data download kits; headbands; holsters; mounts; DPM, XOPM, ODPM, PPM, TPMM, APRM, XPPM, TMM, SPPM, and Stodewave Power Magazine modules; Axon Signal Unk (ASU); and the X-Rail mounting system.

⁶ The manufacturer's limited warranty provides coverage for Axon Fleet camera, Axon Flex 2 camera, Axon Flex controller, Axon Flex 2

controller, or Axon Body 2 batteries that have failed or are exhibiting diminished capacity as result of a manufacturing defect. Under the extended warranty, replacement of the Axon Flex camera battery and Axon Flex 2 camera battery are covered, but replacement of the Axon Flex controller battery, Axon Flex 2 controller battery, and Axon Body 2 battery are not covered.

⁷ Axon will provide the Purchaser with 2 extra batteries for each Axon Signal Sidearm unit upon the initial shipment. In the event the Agency needs additional batteries during the Axon Signal Sidearm Term, the Purchaser may request the batteries through Axon's RMA process.

Data Processing Addendum – to be signed between Axon and the Authority direct

This Data Processing Addendum ("DPA") to the Master Services Purchase Agreement or other similar written or electronic agreement ("Agreement") by and between Axon Enterprise Inc. and Affiliates ("Axon") and The Police and Crime Commissioner for West Midlands, with registered address at Lloyd House, Colmore Circus Queensway, Birmingham, B4 6NQ, ("Customer") for the provision of the Services is made and entered into on the day of receipt of the validly completed DPA by Axon Enterprise, Inc. at the email addresses referenced above ("Effective Date"). Axon and Customer hereinafter will be referred to individually as "Party" and collectively as "Parties".

This Addendum is attached to and forms part of the Agreement between the Parties and of the Effective Date set forth above.

WHEREAS, Axon and Customer entered into the Agreement on approximately 1st June 2021; and

WHEREAS, Axon is in the business of designing, developing, manufacturing, distributing and providing public safety products and services that include, without limitation, conducted electrical weapons and accessories, digital video cameras and accessories, mobile applications, Evidence.com, a digital evidence management solution, record management solutions, and machine learning solutions ("Axon Systems"); and

WHEREAS Customer is the owner of Customer Content that is uploaded, stored, and managed through Axon Systems; and

WHEREAS, Customer desires to grant Axon certain access to and use of Customer Content through Axon Systems, under the terms and conditions outlined herein.

infrastructure logs; (ii) Axon Device and Axon Client Application logs; (iii) service metrics and events logs; and (iv) web transaction logs;

- (d) "Account Data", which means information provided to Axon during sign-up, purchase, or administration of Axon Cloud Services, including, without limitation, the name, address, phone number, and email address Customer provides, as well as aggregated usage information related to Customer's account and administrative data associated with the account; and
- (e) "Support Data", which means the information Axon collects when Customer contacts or engages Axon for support, including, without limitation, information about hardware, software, and other details gathered related to the support incident, such as contact or authentication information, chat session personalization, information about the condition of the machine and the application when the fault occurred and during diagnostics, system and registry data about software installations and hardware configurations, and error-tracking files.

For purposes of clarity, Customer Content does not include Non-Content Data, and Non-Content Data does not include Customer Content. However, both Customer Content and Non-Content Data may contain Personal Data.

"Non-Content Personal Data" means the Personal Data contained within Non-Content Data.

"Data Controller" means the natural or legal person, public authority, or any other body which alone or jointly with others determines the purposes and means of the Processing of Personal Data.

"Data Processor" means a natural or legal person, public authority or any other body which Processes Personal Data on behalf of the Data Controller.

"Data Exporter" means the Data Controller who transfers the Personal Data.

"Data Importer" means the Data Processor who agrees to receive from the Data Exporter Personal Data intended for Processing on Data Exporter's behalf after the transfer in accordance with the Agreement and who is not subject to a third country's system ensuring adequate protection within the meaning of the General Data Protection Regulation (EU) 2016/679 of the European Parliament.

"Data Protection Law(s)" means the GDPR; laws and regulations applicable to the Processing of Personal Data under the Agreement of (a) the European Union; (b) the European Economic Area and their member states; (c) Switzerland; (d) the United Kingdom; (e) the United States and its states; (f) Canada and its provinces and territories; (g) the Commonwealth of Australia; (h) any other jurisdiction as relevant to the Agreement and other legal requirements relating to (i) privacy and data security; and (ii) the use, collection, retention, storage, security, disclosure, transfer, disposal, and other Processing of any Personal Data.

"Data Subject Request" means a request from a data subject to exercise the data subject's right of access, right to rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, object to the Processing, or its right not to be subject to an automated individual decision making, each such request being a "Data Subject Request".

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of personal

to comply with applicable Data Protection Law, or otherwise documented and acknowledged by Axon as constituting instructions for purposes of this DPA ("Customers Instructions"). Axon shall inform Customer if it becomes aware or reasonably believes that Customer's Instructions violate any applicable Data Protection Law.

2.1.2. Customer Compliance. Customer represents and warrants that (a) it has complied, and will continue to comply, with all applicable laws, including Data Protection Law, UKGDPR and DPA2018, in respect of its processing of Customer Content and any processing instructions it issues to Axon; and (b) it has provided, and will continue to provide, all notice and has obtained, and will continue to obtain, all consents and rights necessary under Data Protection Law for Axon to process Customer Content in accordance with Customers Instructions. Customer shall have sole responsibility for the accuracy, quality, and legality of Customer Content and the means by which Customer acquired Customer Content.

2.2. Non-Content Personal Data. The parties acknowledge and agree that Axon controls and owns all right, title, and interest in Non-Content Personal Data. Axon has the right and permission to access Non-Content Personal Data, to (a) perform troubleshooting services upon request or as part of regular diagnostic screening; (b) enforce this DPA or policies governing the use of Axon products; (c) provide, develop, improve, and support current and future Axon products and related services; or (d) perform analytic and diagnostic evaluations of the systems. Non-content Personal Data may be copied, and copies may be modified, analyzed, and used to create derivative works. Non-Content Personal Data may not conform to data retention policies or instructions in Axon Cloud Services. All rights in this section are granted without the need for any compensation to Customer of any sort beyond the system performance benefits which this data will enable. This provision, and Axon's continued right and permission to access Non-Content Personal Data, shall survive any termination of the Agreement.

3. Details of the Processing.

3.1. Details of the Processing of Customer Content. The subject-matter of the Processing, the duration of the Processing, the nature and purpose of the Processing, the types of Customer Content and categories of data subjects Processed under this DPA are further specified in Schedule 1 (Details of the Processing: Customer Content) to this DPA.

3.2. Details of the Processing of Non-Content Personal Data. The subject-matter of the Processing, the duration of the Processing, the nature and purpose of the Processing, the types of Non-Content Personal Data and categories of data subjects Processed under this DPA are further specified in Schedule 2 (Details of the Processing: Non-Content Personal Data) to this DPA.

4. Data Subject Rights. Taking into account the nature of the Processing, Axon shall assist Customer by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of Customer's obligation to respond to a Data Subject Request regarding Customer Content and Non-Content Personal Data.

If in regard to Customer Content, Axon receives a Data Subject Request from Customer's data

any new Sub-processor at least 30 days in advance of providing that Sub-processor with access to Customer Content and Non-Content Personal Data.

7.4. Objection Right for New Sub-processors. If Customer does not approve of a new Sub-processor, then Customer shall object to such an engagement in writing within fourteen (14) days of receipt of the notice from Axon that is referred to in section 7.3 of this DPA. If Customer reasonably objects to an engagement in accordance with this process, Axon shall provide Customer with a written description of commercially reasonable alternative(s), if any, to such engagement, including without limitation modification to their Services. If Customer does not object to the engagement of a third party in accordance with this process within fourteen (14) days of notice by Axon, that third party shall be deemed an Authorized Sub-processor for the purposes of Customer's Agreement.

- 8. Personal Data Breach.** After determining data breach or a Personal Data Breach in relation to Customer Content and Non-Content Personal Data has occurred, Axon shall (a) notify the Customer without undue delay, but within 48 hours at the latest, after determining a Personal Data Breach has occurred; (b) investigate the breach and provide Customer with detailed information about the breach; and (c) take reasonable steps to mitigate the effects and to minimize any damage resulting from the breach.

A notification of a Personal Data Breach shall in any case include the following information: (a) the nature of the breach; (b) where possible the categories and approximate number of Customer Content and Non-Content Personal Data records affected; (c) the categories and number of data subjects possibly affected by the Personal Data Breach; (d) the actual and anticipated consequences of the breach; and (e) the measures taken and to be taken by Axon to mitigate the consequences of the breach to the extent possible.

Customer is solely responsible for complying with its obligations under breach notification laws applicable to Customer and fulfilling any third-party notification obligations related to the breach.

Axon shall make reasonable efforts to assist Customer in fulfilling Customer's obligation under GDPR Article 33 or other applicable law or regulation to notify the relevant Supervisory Authority and data subjects about the breach.

Axon's notification of or response to a Personal Data Breach under this section is not an acknowledgement by Axon of any fault or liability with respect to the breach.

- 9. Liability.** Where permitted by law and not contradictory with the SCC, Axon's cumulative liability to any Party for any loss or damage resulting from any claim, demand, or action arising out of or relating to the Agreement, this DPA, will not exceed the amount of 100,000.00 GBP preceding the claim. Neither Party will be liable for direct, special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.
- 10. Audits.** Axon shall provide the Customer with all information necessary to prove its compliance with the obligations set out in Section 2. Customer shall be entitled to audit periodically whether Axon complies with its obligations arising from the Agreement, this

- 16. Assignment.** Neither Party may assign this DPA without the other Party's prior written consent. Axon may assign this DPA, its rights, or obligations without consent: (a) to an affiliate or subsidiary; or (b) for purposes of financing, merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. This DPA is binding upon the Parties respective successors and assigns.
- 17. Waiver.** No waiver or delay by either Party in exercising any right under this DPA constitutes a waiver of that right.
- 18. Severability.** If a court of competent jurisdiction holds any portion of this this DPA unenforceable, the remaining portions of this DPA will remain in effect.
- 19. Governing Law.** Where not contradictory with clauses 7 and 9 of the SCC, the laws of England & Wales without reference to conflict of law rules, govern this DPA and any dispute arising from it.
- 20. Notices.** All notices must be in English. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Contact information for notices.

Axon Enterprise, Inc.	Agency
[REDACTED]	

- 21. Entire Agreement.** This DPA, including its Schedules represent the entire agreement between the Parties. This DPA and its schedules supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this DPA. This DPA may only be modified or amended in writing signed by the Parties. For clarity, consistent with Clause 10 of the Standard Contractual Clause, the Standard Contractual Clause prevail over any other term of the DPA:
- 22. List of Schedules.**
- Schedule 1: Details of the Processing: Customer Content
 - Schedule 2: Details of the Processing: Non-Content Personal Data
 - Schedule 3: European Union General Data Protection Regulation Terms
 - Schedule 4: Standard Contractual Clause