

Addendum to County of Monterey Non-Standard Agreement

1. Definitions.

- 1.1. **"Axon Cloud Services"** means Axon's web services, including but not limited to, Axon Evidence, Axon Records, Axon Dispatch, and interactions between Axon Evidence and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.
- 1.2. **"Axon Device"** means all hardware provided by Axon under this Agreement. Axon-manufactured Devices are a subset of Axon Devices.
- 1.3. **"Quote"** means an offer to sell and is only valid for devices and services on the offer at the specified prices. Any inconsistent or supplemental terms within County'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 Quote by Axon, and Axon reserves the right to cancel any orders resulting from such errors.
- 1.4. **"Services"** means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.

2. Taxes. County is responsible for sales and other taxes associated with the order unless County provides Axon a valid tax exemption certificate.

3. Shipping. Axon may make partial shipments and ship Axon Devices from multiple locations. All shipments are EXW (Incoterms 2020) via common carrier. Title and risk of loss pass to County upon Axon's delivery to the common carrier. County is responsible for any shipping charges in the Quote.

4. Returns. All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.

5. Warranty.

- 5.1. **Disclaimer.** All software and Axon Cloud Services are provided "AS IS," without any warranty of any kind, either express or implied, including without limitation the implied warranties of merchantability, fitness for a particular purpose and non-infringement. Axon Devices and Services that are not manufactured, published or performed by Axon ("Third-Party Products") are not covered by Axon's warranty and are only subject to the warranties of the third-party provider or manufacturer.

5.2. Limitations.

5.2.1. To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement. County confirms and agrees that, in deciding whether to sign this Agreement, it has not relied on any statement or representation by Axon or anyone acting on behalf of Axon related to the subject matter of this Agreement that is not in this Agreement.

5.2.2. 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 this Agreement will not exceed the purchase price paid to Axon for the Axon Device, or if for Services, the amount paid for such Services over the twelve (12) months preceding the claim. Neither Party will be liable for 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.

6. IP Rights. Axon owns and reserves all right, title, and interest in Axon-manufactured Devices and Services and suggestions to Axon, including all related intellectual property rights. County will not cause any Axon proprietary rights to be violated.

7. IP Indemnification. Axon will indemnify County against all claims, losses, and reasonable expenses from any third-party claim alleging that the use of Axon-manufactured Devices or Services infringes or misappropriates the third-party's intellectual property rights. County must promptly provide Axon with written notice of such claim, tender to Axon the defense or settlement of such claim at Axon's expense and cooperate fully with Axon in the defense or settlement of such claim. Axon's IP indemnification obligations do not apply to claims based on (a) modification of Axon-manufactured Devices or Services by County or a third-party not approved by Axon; (b) use of Axon-manufactured Devices and Services in combination with hardware or services not approved by Axon; (c) use of Axon Devices and Services other than as permitted in this Agreement; or (d) use of Axon software that is not the most current release provided by Axon.

8. General.

- 8.1. **Force Majeure.** Neither Party will be liable for any delay or failure to perform due to a cause beyond a Party's reasonable control.
- 8.2. **Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.

Addendum to County of Monterey Non-Standard Agreement

- 8.3. **Non-Discrimination.** Neither Party nor its employees will discriminate against any person based on race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.
 - 8.4. **Export Compliance.** Each Party will comply with all import and export control laws and regulations.
 - 8.5. **Assignment.** Neither Party may assign this Agreement without the other Party's prior written consent. Axon may assign this Agreement, 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 Agreement is binding upon the Parties respective successors and assigns.
 - 8.6. **Governing Law.** The United Nations Convention for the International Sale of Goods does not apply to this Agreement.
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Addendum to County of Monterey Non-Standard Agreement**Axon Cloud Services Terms of Use Appendix****1. Definitions.**

- a. **"County Content"** is data uploaded into, ingested by, or created in Axon Cloud Services within County's tenant, including media or multimedia uploaded into Axon Cloud Services by County. County Content includes Evidence but excludes Non-Content Data.
 - b. **"Evidence"** is media or multimedia uploaded into Axon Evidence as 'evidence' by an County. Evidence is a subset of County Content.
 - c. **"Non-Content Data"** is data, configuration, and usage information about County'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 County Content.
 - d. **"Personal Data"** means any information relating to an identified or identifiable natural person. 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.
2. **Access.** Upon Axon granting County a subscription to Axon Cloud Services, County may access and use Axon Cloud Services to store and manage County Content. County may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator.
 3. **County Owns County Content.** County controls and owns all right, title, and interest in County Content. Except as outlined herein, Axon obtains no interest in County Content, and County Content is not Axon's business records. County is solely responsible for uploading, sharing, managing, and deleting County Content. Axon will only have access to County Content for the limited purposes set forth herein. County agrees to allow Axon access to County Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of the Axon products.
 4. **Security.** Axon will implement commercially reasonable and appropriate measures to secure County Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and County Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum.
 5. **County Responsibilities.** County is responsible for (a) ensuring County owns County Content; (b) ensuring no County Content or County end user's use of County Content or Axon Cloud Services violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and Internet connections for use of Axon Cloud Services. If County becomes aware of any violation of this Agreement by an end user, County will immediately terminate that end user's access to Axon Cloud Services.
 - a. County will also maintain the security of end usernames and passwords and security and access by end users to County Content. County is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable County regulation and standards. County may not sell, transfer, or sublicense access to any other entity or person. County shall contact Axon immediately if an unauthorized party may be using County's account or County Content, or if account information is lost or stolen.
 6. **Privacy.** County's use of Axon Cloud Services is subject to the Axon Cloud Services Privacy Policy, a current version of which is available at <https://www.axon.com/legal/cloud-services-privacy-policy>. County agrees to allow Axon access to Non-Content Data from County to (a) perform troubleshooting, maintenance, or diagnostic screenings; (b) provide, develop, improve, and support current and future Axon products and related services; and (c) enforce this Agreement or policies governing the use of Axon products.
 7. **Storage.** For Axon Unlimited Device Storage subscriptions, County may store unlimited data in County's Axon Evidence account only if data originates from Axon Capture or the applicable Axon Device. Axon may charge County additional fees for exceeding purchased storage amounts. Axon may place County Content that County has not viewed or accessed for six (6) months into archival storage. County Content in archival storage will not have immediate availability and may take up to twenty-four (24) hours to access.

Addendum to County of Monterey Non-Standard Agreement

For Third-Party Unlimited Storage the following restrictions apply: (i) it may only be used in conjunction with a valid Axon's Evidence.com user license; (ii) is limited to data of the law enforcement agency that purchased the Third-Party Unlimited Storage and the Axon's Evidence.com end user or County is prohibited from storing data for other law enforcement agencies; and (iii) County may only upload and store data that is directly related to: (1) the investigation of, or the prosecution of a crime; (2) common law enforcement activities; or (3) any County Content created by Axon Devices or Evidence.com.

8. **Location of Storage.** Axon may transfer County Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of County Content. For United States agencies, Axon will ensure all County Content stored in Axon Cloud Services remains within the United States. Ownership of County Content remains with County.
9. **Suspension.** Axon may temporarily suspend County's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if County 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. County remains responsible for all fees incurred through suspension. Axon will not delete County Content because of suspension, except as specified in this Agreement.
10. **Axon Cloud Services Warranty.** Axon disclaims any warranties or responsibility for data corruption or errors before County uploads data to Axon Cloud Services.
11. **Axon Cloud Services Restrictions.** County and County end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:
 - a. 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;
 - b. copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;
 - c. access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
 - d. use Axon Cloud Services as a service bureau, or as part of an County infrastructure as a service;
 - e. use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;
 - f. access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;
 - g. 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
 - h. use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; material in violation of third-party privacy rights; or malicious code.
12. **After Termination.** Axon will not delete County Content for ninety (90) days following termination. There will be no functionality of Axon Cloud Services during these ninety (90) days other than the ability to retrieve County Content. County will not incur additional fees if County downloads County Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide County Content after these ninety (90) days and will thereafter, unless legally prohibited, delete all County Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all County Content from Axon Cloud Services.
13. **Post-Termination Assistance.** Axon will provide County with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring County Content, including requests for Axon's data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.
14. **Survival.** Upon any termination of this Agreement, the following sections in this Appendix will survive: County Owns County Content, Privacy, Storage, Axon Cloud Services Warranty, County Responsibilities and Axon Cloud Services Restrictions.

Addendum to County of Monterey Non-Standard Agreement**Axon Application Programming Interface Appendix**

This Appendix applies if Axon's API Services or a subscription to Axon Cloud Services is included on the Quote.

1. Definitions.

- 1.1. "**API Client**" means the software that acts as the interface between County's computer and the server, which is already developed or to be developed by County.
- 1.2. "**API Interface**" means software implemented by County to configure County's independent API Client Software to operate in conjunction with the API Service for County's authorized Use.
- 1.3. "**Axon Evidence Partner API, API or Axon API**" (collectively "**API Service**") means Axon's API which provides a programmatic means to access data in County's Axon Evidence account or integrate County's Axon Evidence account with other systems.
- 1.4. "**Use**" means any operation on County's data enabled by the supported API functionality.

2. Purpose and License.

- 2.1. County may use API Service and data made available through API Service, in connection with an API Client developed by County. Axon may monitor County's use of API Service to ensure quality, improve Axon devices and services, and verify compliance with this Agreement. County agrees to not interfere with such monitoring or obscure from Axon County's use of API Service. County will not use API Service for commercial use.
- 2.2. Axon grants County a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term to use API Service, solely for County's Use in connection with County's API Client.
- 2.3. Axon reserves the right to set limitations on County's use of the API Service, such as a quota on operations, to ensure stability and availability of Axon's API. Axon will use reasonable efforts to accommodate use beyond the designated limits.

3. Configuration. County will work independently to configure County's API Client with API Service for County's applicable Use. County will be required to provide certain information (such as identification or contact details) as part of the registration. Registration information provided to Axon must be accurate. County will inform Axon promptly of any updates. Upon County's registration, Axon will provide documentation outlining API Service information.**4. County Responsibilities.** When using API Service, County and its end users may not:

- 4.1. use API Service in any way other than as expressly permitted under this Agreement;
- 4.2. use in any way that results in, or could result in, any security breach to Axon;
- 4.3. perform an action with the intent of introducing any viruses, worms, defect, Trojan horses, malware, or any items of a destructive nature to Axon Devices and Services;
- 4.4. interfere with, modify, disrupt or disable features or functionality of API Service or the servers or networks providing API Service;
- 4.5. reverse engineer, decompile, disassemble, or translate or attempt to extract the source code from API Service or any related software;
- 4.6. create an API Interface that functions substantially the same as API Service and offer it for use by third parties;
- 4.7. provide use of API Service on a service bureau, rental or managed services basis or permit other individuals or entities to create links to API Service;
- 4.8. frame or mirror API Service on any other server, or wireless or Internet-based device;
- 4.9. make available to a third-party, any token, key, password or other login credentials to API Service;
- 4.10. take any action or inaction resulting in illegal, unauthorized or improper purposes; or
- 4.11. disclose Axon's API manual.

5. API Content. All content related to API Service, other than County Content or County's API Client content, is considered Axon's API Content, including:

- 5.1. the design, structure and naming of API Service fields in all responses and requests;
- 5.2. the resources available within API Service for which County takes actions on, such as evidence, cases, users, or reports;

Addendum to County of Monterey Non-Standard Agreement

- 5.3. the structure of and relationship of API Service resources; and
- 5.4. the design of API Service, in any part or as a whole.
6. Prohibitions on API Content. Neither County nor its end users will use API content returned from the API Interface to:
 - 6.1. scrape, build databases, or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;
 - 6.2. copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display, or sublicense to any third-party;
 - 6.3. misrepresent the source or ownership; or
 - 6.4. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices).
7. API Updates. Axon may update or modify the API Service from time to time ("**API Update**"). County is required to implement and use the most current version of API Service and to make any applicable changes to County's API Client required as a result of such API Update. API Updates may adversely affect how County's API Client access or communicate with API Service or the API Interface. Each API Client must contain means for County to update API Client to the most current version of API Service. Axon will provide support for one (1) year following the release of an API Update for all depreciated API Service versions.

Addendum to County of Monterey Non-Standard Agreement**Axon Event Offer Appendix**

If the Agreement includes the provision of, or Axon otherwise offers, ticket(s), travel and/or accommodation for select events hosted by Axon ("Axon Event"), the following shall apply:

1. **General**. Subject to the terms and conditions specified below and those in the Agreement, Axon may provide County with one or more offers to fund Axon Event ticket(s), travel and/or accommodation for County-selected employee(s) to attend one or more Axon Events. By entering into the Agreement, County warrants that it is appropriate and permissible for County to receive the referenced Axon Event offer(s) based on County's understanding of the terms and conditions outlined in this Axon Event Offer Appendix.
2. **Attendee/Employee Selection**. County shall have sole and absolute discretion to select the County employee(s) eligible to receive the ticket(s), travel and/or accommodation that is the subject of any Axon Event offer(s).
3. **Compliance**. It is the intent of Axon that any and all Axon Event offers comply with all applicable laws, regulations and ethics rules regarding contributions, including gifts and donations. Axon's provision of ticket(s), travel and/or accommodation for the applicable Axon Event to County is intended for the use and benefit of County in furtherance of its goals, and not the personal use or benefit of any official or employee of County. Axon makes this offer without seeking promises or favoritism for Axon in any bidding arrangements. Further, no exclusivity will be expected by either party in consideration for the offer. Axon makes the offer with the understanding that it will not, as a result of such offer, be prohibited from any procurement opportunities or be subject to any reporting requirements. If County's local jurisdiction requires County to report or disclose the fair market value of the benefits provided by Axon, County shall promptly contact Axon to obtain such information, and Axon shall provide the information necessary to facilitate County's compliance with such reporting requirements.
4. **Assignability**. County may not sell, transfer, or assign Axon Event ticket(s), travel and/or accommodation provided under the Agreement.
5. **Availability**. The provision of all offers of Axon Event ticket(s), travel and/or accommodation is subject to availability of funds and resources. Axon has no obligation to provide Axon Event ticket(s), travel and/or accommodation.
6. **Revocation of Offer**. Axon reserves the right at any time to rescind the offer of Axon Event ticket(s), travel and/or accommodation to County if County or its selected employees fail to meet the prescribed conditions or if changes in circumstances render the provision of such benefits impractical, inadvisable, or in violation of any applicable laws, regulations, and ethics rules regarding contributions, including gifts and donations.