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**Effective November 21, 2019**

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In the event that the Software or any part thereof becomes, or in Avigilon's opinion is likely to become, the subject of a claim of infringement of a United States patent, trade secret or copyright, or the use of the Software or any part thereof is enjoined as a result of any such claim, You shall permit Avigilon, at its sole option and expense, to: (i) procure for You the right to continue using the Software; (ii) replace the affected Software with non-infringing Software; (iii) modify the affected Software so that it becomes non-infringing; or (iv) remove the affected Software and refund the purchase price thereof, less a reasonable amount for depreciation.

The foregoing states the entire liability of Avigilon with respect to any actual or alleged infringement of any intellectual property right.

16. Indemnity by You. You will defend, indemnify and save harmless each of the Avigilon Parties from and against all actions, proceedings, demands, claims, liabilities, losses, damages, judgments, costs and expenses including, without limiting the generality of the foregoing, legal fees and disbursements actually incurred, together with all applicable taxes, which any such indemnified person under this Section 16 may be liable to pay or may incur by reason of, or directly or indirectly arising out of, any breach of this Agreement by You or any of Your directors, officers, employees, agents, or contractors, or on Your instructions.
17. Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes any previous agreements between the parties, with respect to the subject matter of this Agreement. Any terms of any purchase order or other instrument issued by either party in connection with this Agreement that is in addition to or inconsistent with the terms of this Agreement shall have no force or effect unless signed by both parties.
18. Amendment. Any amendment to this Agreement shall be put in writing and signed by both parties prior to being in effect. Notwithstanding the foregoing:
- a. Avigilon reserves the right to unilaterally amend this Agreement at any time without advance notice to You where the amendments involve (i) correcting typographical errors; (ii) correcting inconsistent, incorrect, or ambiguous wording for the purpose of clarifying the intended purposes and intent of the applicable wording (but without altering its nature or scope); or (iii) updating this Agreement to better address or comply with the provisions of applicable laws.

- b. This Agreement may be superseded by a subsequent End User License Agreement that You agree to in connection with Avigilon's providing to You any future component, release, upgrade or other modification or addition to the Software.
19. Jurisdiction. This Agreement and performance under this Agreement will be governed by the laws of the Province of British Columbia and the laws of Canada applicable therein without reference to principles of conflicts of laws, and the courts in Vancouver, British Columbia and the courts of appeal therefrom will have exclusive jurisdiction to hear any proceedings relating to this Agreement. You hereby irrevocably attorn to the jurisdiction of those courts. You expressly exclude the application of the United Nations convention on Contracts for the International Sale of Goods (the Vienna Convention, 1980).
20. Incorporation of 'Open Source' and other Third Party Software. Portions of the Software may be subject to certain third party license agreements governing the use, copying, modification, redistribution and warranty of those portions of the Software, including what is commonly known as 'open source' software. No warranty is provided by Avigilon for any such open source software. By using the Software You agree to be bound to the terms of any such third party licenses. If provided for in the applicable third party license, You may have a right to receive source code for such software for use and distribution in any program that You create, so long as You in turn agree to be bound to the terms of the applicable third party license and Your programs are distributed under the terms of that license. If applicable, a copy of such source code may be obtained free of charge by contacting Your Avigilon representative.
21. Collection of Data. By Your acceptance of the terms of this Agreement, You agree that Avigilon may:
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  - b. collect, or use a third party to collect (on Avigilon's behalf), from time to time, Your system configuration and system usage data. This information will be used only to further develop and improve the Software and Avigilon's associated products and services. Avigilon shall not utilize or disclose this data in a form that personally identifies You.
- Any personal information collected by Avigilon is subject to the Avigilon's Privacy Statement, available at [avigilon.com/privacy](http://avigilon.com/privacy), as may be amended from time to time.
22. Demonstration and Evaluation Copies. A demonstration or evaluation copy of the Software is covered by this Agreement, provided that the licenses contained in this Agreement expire at the end of the demonstration or evaluation period.

23. Enurement. All covenants, representations, warranties and agreements of the parties contained in this Agreement will be binding upon and will enure to the benefit of the parties and their respective successors and assigns.
24. Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, it shall be severed and the remaining provisions shall continue in full force and effect.
25. Non-Waiver. The waiver or failure of Avigilon to exercise in any respect any right provided in this Agreement will not be deemed a waiver of any further right under this Agreement.
26. Compliance with Licenses. You agree that upon request from Avigilon or its authorized representative, You will, within thirty (30) days of such request, fully document and certify that Your use of any and all Software at the time of the request is in conformity with Your valid license(s) from Avigilon. You agree to use Your best efforts and to take all reasonable steps to safeguard the Software to ensure that no unauthorized person shall have access thereto and that no unauthorized copy or distribution, in any form, of the Software shall be made.
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29. Avigilon Cloud Portal. Your use of the Software, or certain features or functionality of the Software, may involve or otherwise require Your use of the Avigilon Cloud Portal, a web-based portal/platform developed and maintained by Avigilon to, amongst other things, facilitate the operation of certain features and functionality of the Software. To the extent You access and use the Avigilon Cloud Portal in connection with Your use of the Software, the additional terms and conditions set forth in Appendix "A" (Terms and Conditions for the Avigilon Cloud Portal) will apply.

**Appendix “A”**  
**Terms and Conditions for the Avigilon Cloud Portal**

This Appendix “A” (“**Appendix A**”) is incorporated into and forms a part of the Avigilon Control Center Software End User License Agreement (the “**Agreement**”). Capitalized terms not defined in this Appendix A will have the meaning otherwise ascribed to them in the Agreement.

This Appendix A sets for the terms and conditions governing the provision of the Service (as defined below) by Avigilon Corporation and the use of the Service by You and any Authorized Personnel (as defined below).

1. Definitions. In this Appendix A, the following terms have the following meanings:
  - a. “**Applicable Laws**” means any and all laws (statutory, common, or otherwise), rules, regulations, orders, injunctions, judgments, rulings or other similar requirement, including data protection laws, export laws, and personal privacy laws, that are binding upon or applicable to You, Authorized Personnel, Your business, or the use of the Service or any User Generated Data, including in: (i) the jurisdictions in which You or Authorized Personnel use the Service; (ii) the jurisdictions in which each camera, microphone, or other recording or surveillance device which generates User Generated Data is located; and (iii) the jurisdictions in which individuals whose personal information may be captured using the Service are located.
  - b. “**Authorized Personnel**” means any individual that is either: (i) authorized by You to access and use the Service on behalf of You; or (ii) granted access to the Service by You. Authorized Personnel may include, but are not limited to, Your employees, consultants, contractors, and agents.
  - c. “**Avigilon**” means Avigilon Corporation together with any corporation or other entity directly or indirectly controlling, controlled by, or under common control with Avigilon Corporation, where ‘control’ means the ownership of greater than 50% of the shares, voting rights, participation or economic interest in such corporation or other entity.
  - d. “**Excused Downtime**” means any period of unavailability or inoperability of the Service caused by a Force Majeure Event.
  - e. “**Force Majeure Event**” means any circumstance or occurrence beyond the reasonable control of Avigilon, including, without limitation, acts or omissions by a public authority, acts of God, strikes, blockades, acts of terrorism, riots, storms, earthquakes, explosions, fires, floods, Internet or telecommunications failures/outages/delays, third-party hosting facility failures, denial of service attacks, or other similar occurrences.

- f. **“Intellectual Property”** means intellectual property and rights thereto and therein, and includes inventions (whether or not patented or reduced to practice), patents, designs, know-how, copyrights, trade secrets, trademarks, service marks, logos, and commercial symbols, and all other rights in, claims related to, and applications and registrations associated therewith.
- g. **“Maintenance Period”** means any period during which the Service is unavailable for maintenance reasons, including the implementation of any updates, enhancements, patches, fixes, or error corrections.
- h. **“Microsoft AUP”** means, at any point in time, Microsoft Corporation’s then current Acceptable Use Policy (or similar or successor policy) applicable to Microsoft Azure, as currently included in the Online Service Terms applicable to Microsoft Azure, which are currently available at: <https://www.microsoft.com/en-ca/Licensing/product-licensing/products.aspx>.
- i. **“Microsoft Azure”** means the cloud computing and services platform created and hosted by Microsoft Corporation which is utilized by Avigilon as a means of providing the Service (or portions thereof).
- j. **“Service”** means the Avigilon Cloud Portal, a web-based portal/platform developed and maintained by Avigilon to, amongst other things, facilitate the operation of certain features and functionality of the Software.
- k. **“User Generated Data”** means: (i) any data or content, including but not limited to audio and video files and data, that You or any Authorized Personnel generate, collect, record, transmit, or store in connection with their use of the Service; (ii) any system or Service setup, configuration, usage or performance data, including but not limited to the names and contact information for You and any Authorized Personnel, that You or any Authorized Personnel generate, collect, record, transmit, or store in connection with their use of the Service; and (iii) any data, content, or other information that You or any Authorized Personnel provide to Avigilon for customer or technical support purposes.

## 2. Use of the Service

- a. *Provision of Access and Use.* Subject to Your continued payment of all license fees applicable to Your use of the Software and Service, and subject to the continued compliance with the Agreement by You and all Authorized Personnel, Avigilon grants You and the Authorized Personnel a limited, non-exclusive, non-transferable right to access and use the features and functions of the Service.
- b. *Responsibilities of You and all Authorized Personnel.* Each of You and each Authorized Personnel acknowledges and agrees that it shall, in accessing and using the Service (including its use of any User Generated Data), comply with the Agreement (including this Appendix A),

the Microsoft AUP, and all Applicable Laws. Each of You and each Authorized Personnel acknowledges and understands that Applicable Laws may include restrictions or prohibitions regarding the recording of audio, video, or any other content containing information that may be used to identify an individual, or requirements to provide notice of, or obtain consent to, the capture or recording of a person's personal information, including, but not limited to, their image, voice, or facial geometry.

You acknowledge and agree that You shall be responsible and liable for any breach of the Agreement (including this Appendix A) or the Microsoft AUP by any Authorized Personnel. You must promptly notify Avigilon of any use of the Service by You or any Authorized Personnel that is in breach of the Agreement (including this Appendix A) or the Microsoft AUP.

- c. *General Usage Restrictions.* Each of You and each Authorized Personnel acknowledges and agrees that it shall not: (i) modify, create derivative works from, reverse engineer, or reverse assemble, translate, decompile, or reverse compile the Service, or attempt to obtain or perceive its source code; (ii) disclose any password or access protocols in respect of the Service to any person (except as between You and the Authorized Personnel) or otherwise allow any person other than the Authorized Personnel to gain access to the Service; (iii) copy, sublicense, reproduce, rent, sell, lease, distribute, pledge, assign, or otherwise transfer, or encumber rights to the Service, or any part thereof, or use them for the benefit of any third party or include any Service in any other product offering; or (iv) use the Service in violation of the rights of any third party, including third party Intellectual Property rights. In addition, You and each Authorized Personnel shall not use the Service to: (v) interfere with or disrupt the integrity, availability, reliability, or performance of the Service or the data contained therein; (vi) store or transmit malicious code; (vii) launch or facilitate, whether intentionally or unintentionally, a denial of service attack on any of the Service, its users, or Avigilon; or (viii) attempt to gain unauthorized access to the Service, computer systems, or networks related to the Service.
- d. *Data Transfer and Personal Information.* Each of You and each Authorized Personnel understands and acknowledges that Avigilon uses third-party service providers, including cloud storage and transfer platforms, in conjunction with the Service (including, as applicable, Microsoft Azure). Accordingly, any information, including personal information, collected by You or any Authorized Personnel in connection with the use of the Service may be processed in, and subject to the laws of jurisdictions other than the jurisdiction(s) where You or any Authorized Personnel are located, or where the personal information was originally collected. Avigilon does not represent or warrant that the Service is appropriate for use in any particular jurisdiction. By using the Service, You and each Authorized Personnel represent that it, and they, have provided appropriate notice of, and obtained appropriate consent to, the cross-border transfer and processing of any personal information that You or any Authorized Personnel collect, record, transmit, or store in connection with the Service, in accordance with the laws and regulations applicable to such transfers and processing.

3. Ownership.

- a. *Service.* The Service and any Intellectual Property underlying the Service, including but not limited to the software that operates the Service is, and will be and remain the exclusive property of Avigilon or, as applicable, its licensors. Except as specifically set forth herein, the Agreement (including this Appendix A) does not and will not constitute an express or implied license, agreement, or grant to You or any Authorized Personnel of any rights to or under any of Avigilon's Intellectual Property.
- b. *Improvements.* You and all Authorized Personnel grant Avigilon a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Service any suggestions, enhancement requests, recommendations, or other feedback that You or any Authorized Personnel provide, directly or indirectly, to Avigilon relating to the operation of the Service.
- c. *User Generated Data.* As between You and Avigilon, Avigilon acknowledges and agrees that You own all rights, title, and interest in and to all User Generated Data. You grant a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to Avigilon to use any User Generated Data in order to operate, maintain, or improve the Service or other Avigilon products and services.

4. Privacy. In connection with the use of the Service, You may transmit or otherwise make available, User Generated Data, directly or indirectly, to Avigilon. Avigilon's access to, and use of such User Generated Data, will be governed by this Appendix A and Avigilon's Privacy Statement, available at [Avigilon.com/privacy](http://Avigilon.com/privacy), as may be amended from time to time.

5. Service Warranty. Subject to Your continued payment of all license fees applicable to Your use of the Software and the Service, and subject to continued compliance with the Agreement (including this Appendix A) by User and all Authorized Personnel, Avigilon will use commercially reasonable efforts to: (a) maintain the security and integrity of the Service; and (b) make the Service available 24 hours a day, 7 days a week, except for any Maintenance Period and Excused Downtime. Avigilon will use commercially reasonable efforts to provide advance notice of any Maintenance Period, which notice may be provided through the Service.

AVIGILON DOES NOT WARRANT THAT THE SERVICE WILL MEET YOUR REQUIREMENTS OR NEEDS, OR THAT OPERATION OF THE SERVICE WILL BE UNINTERRUPTED, OR THAT THE SERVICE WILL BE ERROR-FREE, OR THAT ANY DEFECTS OR ERRORS IN THE SERVICE WILL BE CORRECTED.

EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 5, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND AVIGILON DISCLAIMS ANY AND ALL OTHER PROMISES, REPRESENTATIONS, AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF: (A) MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (B) ACCURACY OR COMPLETENESS OF

RESPONSES, RESULTS, OR INFORMATIONAL CONTENT; (C) TITLE OR NON-INFRINGEMENT OR NON-MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, SUBJECT TO THE INDEMNIFICATION OBLIGATIONS OF AVIGILON IN SECTION 6 BELOW; (D) QUALITY AND FUNCTIONALITY OF INSTALLATION OF THE SERVICE, OR RELATED HARDWARE AND SOFTWARE BY A THIRD PARTY; OR (E) INTEGRATION AND COMPATIBILITY OF THE SERVICE WITH THIRD PARTY HARDWARE. AVIGILON SHALL NOT BE RESPONSIBLE FOR PROBLEMS IN THE INTERACTION OF THE SERVICE WITH NON-AVIGILON SOFTWARE OR HARDWARE PRODUCTS.

6. Limitations of Liability. Avigilon shall have no liability to You for any unauthorized use, corruption, deletion, destruction, or loss of any User Generated Data.

IN NO EVENT WILL AVIGILON, NOR ANY OF ITS RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR OTHER PERSONNEL (COLLECTIVELY, THE “**AVIGILON PARTIES**”), BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, RELIANCE, COVER, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING BUT NOT LIMITED TO, DAMAGES FOR: LOSS OF PROFITS; LOSS OF SAVINGS; LOSS OF CONFIDENTIAL OR OTHER INFORMATION; BUSINESS INTERRUPTION; PERSONAL INJURY; LOSS OF PRIVACY; LOSS OR DAMAGE OF OR TO PROPERTY, SYSTEMS, RECORDS, OR DATA; FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE; NEGLIGENCE; AND ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SERVICE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, THIRD PARTY CLAIMS, LIABILITIES RELATED TO AN INDIVIDUAL’S PRIVACY RIGHT, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS APPENDIX A, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR BREACH OF WARRANTY OF AN AVIGILON PARTY, AND EVEN IF AN AVIGILON PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU ARE SOLELY RESPONSIBLE AND LIABLE FOR VERIFYING THE SECURITY, ACCURACY AND ADEQUACY OF ANY OUTPUT FROM THE SERVICE, AND FOR ANY RELIANCE THEREON.

NOTWITHSTANDING ANY DAMAGES THAT YOU MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED ABOVE AND ALL DIRECT OR GENERAL DAMAGES), THE ENTIRE LIABILITY OF THE AVIGILON PARTIES AND ANY LICENSOR OF AVIGILON UNDER ANY PROVISION OF THESE TERMS OF SERVICE AND USER’S EXCLUSIVE REMEDY FOR ALL OF THE FOREGOING WILL IN NO CASE EXCEED THE AMOUNT ACTUALLY PAID BY YOU TO AVIGILON FOR THE SOFTWARE OR THE SERVICE IN THE PRECEDING SIX MONTH PERIOD.

THE FOREGOING LIMITATIONS OF LIABILITY WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

7. Term, and Suspension and Termination of Service

- a. *Termination by Avigilon.* Avigilon may, at its option, immediately restrict access to, suspend, terminate, or modify the Service (as otherwise available to You and any Authorized Personnel) in the event that: (i) You or any Authorized Personnel breach any provision of the Agreement (including this Appendix A); (ii) You fail to pay any amounts owing to Avigilon; (iii) Avigilon, in

its sole discretion, determines that the User Generated Data, or the use of the Service by You or any Authorized Personnel, threatens the security, integrity, or availability of the Service or violates any Applicable Law; or (v) any law: (A) subjects Avigilon or Microsoft to requirements not generally applicable to businesses in the relevant jurisdiction, (B) imposes undue economic hardship on Avigilon or Microsoft in connection with the provision of the Service or Microsoft Azure, respectively, or (C) causes Avigilon to believe that the Service, or causes Microsoft to believe that Microsoft Azure, may conflict with such law.

- b. *Effect of Suspension.* Upon any restriction or suspension of Your access to the Service implemented by Avigilon pursuant to Section 7(a) above, until the causal factor of any such restriction/suspension is rectified to Avigilon's satisfaction: (i) You and all Authorized Personnel must immediately discontinue all use of the Service (except as may otherwise be specifically permitted by Avigilon pursuant to the terms of such restriction/suspension); (ii) to the extent within its reasonable control, You must promptly rectify the causal factor of the restriction/suspension; and (iii) Avigilon will, at its discretion, cease providing the Service (or portion thereof) to You and all Authorized Personnel.
- c. *Effect of Termination.* Upon termination of Your access to the Service pursuant to Section 7(a) above or otherwise: (i) You and all Authorized Personnel must immediately discontinue all use of the Service; (ii) You must promptly pay all remaining amounts, if any, due; and (iii) Avigilon will cease providing the Service to You and all Authorized Personnel and, at its discretion, may at any time thereafter delete all User Generated Data then in Avigilon's systems or otherwise in its possession.
- d. *Survival.* The provisions of this Appendix A which, by their terms, require performance after the expiration or earlier termination of the Service or the Agreement (including this Appendix A), including but not limited to those contained in Sections 2(b) (Responsibilities of User and Authorized Personnel), 2(c) (General Usage Restrictions), 2(d) (Data Transfer and Personal Information), 3 (Ownership), 4 (Privacy), 5 (Service Warranty), and 6 (Limitations of Liability), will survive the expiration or earlier termination of the Service or the Agreement (including this Appendix A).