

# USA and Canada-Specific Terms Addendum

Last amended: 12/2021

The following USA and Canada Specific Terms (“**Addendum**”) are attached and made part of the Platform Terms of Use for the IoT platform for security camera systems under [www.azena.com](http://www.azena.com) (“**Platform**”) provided by Security and Safety Things GmbH (“**Azena**”) (the “**Terms of Use**”). Capitalized terms used but not defined in this Addendum have the meanings assigned to them in the Terms of Use. To the extent there are any inconsistencies between the terms of this Addendum and the terms of the Terms of Use, this Addendum will prevail. This Addendum sets forth provisions that replace, amend, or supplement the equivalent provisions noted below (i) when Customer is located in Canada, the United States of America, or its territories; **and** (ii) a court of competent jurisdiction declares that Section 22 (Applicable law and place of jurisdiction) is invalid or unenforceable.

1. **Applicable law and place of jurisdiction.** The following provisions replace Section 22 of the Terms of Use and apply to any dispute arising out of or in connection with Customer’s use of the Platform:

The Terms of Use and all disputes between Azena and Customer arising out of or related thereto or the Platform shall be governed by the laws of the State of Michigan except for its choice of law rules; the United Nations Convention on the International Sale of Goods shall not apply. Azena and Customer acknowledge that the Term of Use evidence a transaction involving interstate commerce. Azena and Customer shall first endeavor to resolve through good faith negotiations any dispute arising under or related to the Terms of Use or the Platform. If a dispute cannot be resolved through good faith negotiations within a reasonable time, either party may request non-binding mediation by a mediator approved by both Parties. If mediation fails to resolve the dispute within thirty (30) days after the first mediation session, then, upon notice by either Party to the other, any and all disputes, controversies, differences, or claims arising out of or relating to the Terms of Use (including the formation, existence, validity, interpretation (including of this Arbitration clause), breach or termination thereof) or the Platform shall be resolved exclusively through binding arbitration, except that either party shall have the right, at its option, to seek injunctive relief, under seal to maintain confidentiality to the extent permitted by law, (i) in either the Michigan Circuit Court for the County of Oakland or the United States Court for the Eastern District of Michigan, or (ii) pursuant to the American Arbitration Association Commercial Rules for Emergency Measures of Protection. A request by a party to a court of competent jurisdiction for such interim measures shall not be deemed incompatible with, or a waiver of, this agreement to arbitrate. The parties agree that any ruling by the arbitration tribunal on interim measures shall be deemed to be a final award for purposes of enforcement. The arbitration proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the AAA as amended from time to time, except as modified by this clause or by mutual agreement of the parties, and shall be governed by the United States Federal Arbitration Act. Within 14 days after the commencement of arbitration, each party shall select one person to act as arbitrator and the two selected shall select a third arbitrator within 10 days of their appointment. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the AAA. The arbitration shall be conducted in Detroit, Michigan, and the language of the arbitration shall be English. The arbitrators’ award shall be final and binding. The arbitrators shall issue a written opinion setting forth the basis for the arbitrators’ decision. The written opinion may be issued separately from the award by the arbitrators where necessary to preserve confidentiality, in the arbitrators’ discretion. Each party shall bear its own fees and costs, and each party shall bear one half the cost of the arbitration hearing fees, and the cost of the arbitrator, unless the arbitrators find the claims to have been frivolous or harassing, which may include an award of legal fees and costs. Either party may apply to have the arbitration award confirmed and a court judgment entered upon it. Venue for confirmation of or any challenge to the Arbitration Award shall be in either the Michigan Circuit Court for the County of Oakland or the United States Court for the Eastern District of Michigan and shall be done under seal to maintain confidentiality to the maximum extent permitted by law. The arbitrators shall have no authority to award punitive damages or any other damages excluded herein, to

the maximum extent permitted by law. Except as may be required by law, neither a party, its counsel, nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

2. **Liability.** The following provisions replace Section 15 of the Terms of Use in its entirety:

THE PLATFORM AND THE SERVICES OFFERINGS ARE PROVIDED “AS IS” AND “AS AVAILABLE,” AND AZENA MAKES NO WARRANTIES, EXPRESS, IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, AS TO THE PLATFORM, THE SERVICE OFFERINGS, OR ANY MATTER WHATSOEVER. AZENA DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE AND NON-INFRINGEMENT.

AZENA SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA OR ANY OTHER CONTENT, LOST PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER LOSSES), ARISING OUT OF ANY USE OF THE PLATFORM, THE SERVICE OFFERINGS, OR ANY PERFORMANCE OF ITS OBLIGATIONS UNDER THE TERMS OF USE (INCLUDING, WITHOUT LIMITATION, USE, INABILITY TO USE, OR THE RESULTS OF USE OF THE PLATFORM, THE SERVICE OFFERING(S), OR SECURITY BREACHES RELATED TO THE PLATFORM).

AZENA’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE TERMS OF USE AND/OR THE PLATFORM WILL NOT EXCEED THE LESSER OF (i) THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING A CLAIM or (ii) 50,000 US DOLLAR. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.

Security and Safety Things GmbH - operating as Azena