

IXON Inc. GENERAL TERMS AND CONDITIONS

Version: March 2023

1 Definitions

- 1.1 Agreement: shall mean the agreement between the Customer and IXON for the delivery of Hardware, together with any amendment or addition to such agreement.
- 1.2 Customer(s): shall mean any natural person or business entity with whom IXON deals in the course of its business, including distributors, end-purchasers of the Hardware, dealers, representative(s), agent(s), successor(s) and including visitors of the IXON website.
- 1.3 Defect(s): shall mean any substantive defect of the Hardware in breach of any written specification by IXON, as a result of which the Hardware is not fit for its intended use, at IXON's sole discretion.
- 1.4 Hardware: shall mean the IXON hardware provided pursuant to the Agreement, including but not limited to edge gateways, peripherals, and related software.
- 1.5 IXON: shall mean:
 - **IXON Inc.**, a Delaware corporation; IXON Inc. has a mailing address at 228 E. 45 Street, Suite 9E, New York, NY 100017, USA.
- 1.6 Party or Parties: shall mean IXON and Customer, individually or collectively.
- 1.7 Terms: shall mean these General Terms and Conditions.

2 Applicability

- 2.1 These Terms apply to all offers by IXON and any Agreement. By entering into an Agreement with IXON, Customer accepts these Terms. These Terms shall be applicable regardless of whether IXON uses third parties to deliver Hardware. Any changes to these Terms must be agreed upon in writing by the Parties.
- 2.2 No other terms shall be binding upon IXON unless accepted by IXON in writing. IXON expressly rejects any general terms and conditions used by Customer. Customer may issue a purchase order for administrative purposes only. Additional or different terms contained in any such purchase order will be null and void and do not bind IXON.
- 2.3 IXON reserves the right to amend these Terms at any time. New or amended Terms shall be applicable upon thirty (30) days' notice to Customer.
- 2.4 In case of inconsistencies between the terms of an Agreement and those contained in these Terms, the terms of the Agreement shall control.
- 2.5 Any offers from IXON or agreements with IXON relating to services (like the IXON Cloud or the provision of software) are subject to our Terms of Use, which can be found online at <https://portal.ixon.cloud>.

3 Offers, Hardware, Prices and Taxes

- 3.1 All offers made by IXON are non-binding and may be revoked at any time, unless stated otherwise in writing by IXON. Any amendments made by Customer to an offer by IXON will be deemed a new offer by Customer, which IXON may accept or reject in its sole discretion. Offers will only be deemed accepted by IXON if it does so in writing. IXON has the right to revoke any offer accepted by Customer within three days of receiving notification of such acceptance.
- 3.2 In the event IXON enters into an Agreement with more than one party, each party shall be jointly and severable liable for fulfilling the Agreement.
- 3.3 Any information or data related to Hardware, provided verbally or in writing, is binding only to the extent it is by reference expressly included and confirmed in writing in the Agreement with IXON.



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- 3.4 Customer hereby understands and accepts that all samples, colors, drawings, models, figures, dimensions, weights or any other specifications for Hardware are estimates only, although IXON will use best efforts to ensure their accuracy.
 - 3.5 Hardware configurations and prices are subject to change at any time, and IXON shall at all times be entitled to modify price lists, brochures, printed matter, quotations and other documents.
 - 3.6 All prices are exclusive of, and Customer shall pay, all taxes, duties, levies or fees, or other similar charges imposed on IXON or Customer by any taxing authority (other than taxes imposed on IXON's income), related to Customer's order, unless Customer has provided IXON with an appropriate resale or exemption certificate for the delivery location. In case of changes in law such that a tax is levied that is or becomes irrecoverable with a consequent increase to the costs to IXON of delivering the Hardware, IXON is entitled to increase its prices accordingly and retro-actively.
 - 3.7 The prices or fees quoted are in US Dollars, or in another currency if stated by IXON in writing.
 - 3.8 All Agreements for the delivery of Hardware shall be treated as separate agreements.

4 Payment

- 4.1 Unless otherwise agreed upon in writing by IXON, Customer agrees to pay, without the right to set-off any amount, all invoiced amounts within thirty days. In the event Customer (i) terminates or suspends all or a substantial portion of its business activities, (ii) becomes insolvent, (iii) admits its inability to pay its debts, or (iv) in case of the voluntary or involuntary filing of a petition for or adjudication of bankruptcy of Customer under any federal, state or municipal bankruptcy or insolvency act, the appointment of a receiver, trustee, custodian, or liquidator, or any act or action constituting a general assignment by Customer of its properties and/or interest for the benefit of creditors, all amounts will be due immediately.
- 4.2 IXON is entitled to raise agreed upon prices and tariffs in the event of interim price increases and/or surcharges outside of its control on (i) prices of goods, (ii) costs of materials, (iii) services necessary for the execution of the Agreement, such as shipping costs or wages or, (iv) the decrease in value of the currencies agreed upon, and (v) all other government measures having the effect of increasing prices as a result of which the cost price increases. Customer will be informed of such price increases in writing as soon as practicable.
- 4.3 Where payment is not made pursuant to the agreed upon terms, interest shall be owed at a rate of 2% a month, or the highest rate allowable by law, if lower, with effect from the first day following expiration of the payment term referred to in this article. Any portion of a month shall be considered a full month.
- 4.4 Payments made by Customer shall be used first to meet all the interest and costs owed and subsequently for the settlement of claims under the Agreement which have remained outstanding for the longest period of time, even when Customer specifies that the payment relates to another claim.
- 4.5 Customer shall not be entitled to refuse its payment obligations on account of an alleged Defect in the Hardware, or on any other account whatsoever.
- 4.6 If IXON believes that Customer's financial position and/or payment performance justifies such action, IXON has the right to demand that Customer immediately furnish security in a form to be determined by IXON, including a UCC Chapter 9 security right and/or that Customer makes an advance payment. If Customer fails to furnish the desired security, IXON has the right, without prejudice, to immediately suspend further execution of the Agreement, and that which Customer owes to IXON will become immediately due and payable.
- 4.7 Customer shall be liable for amounts which IXON incurs to collect payment, including without limitation, collection agency fees, reasonable attorneys' fees and arbitration or court costs.



5 Orders, Shipping, and Delivery

- 5.1 Purchase orders can be sent by email to sales@ixon.cloud and are only binding upon written acceptance by IXON. All orders are subject to Hardware availability and IXON is entitled to make partial deliveries. Customer is aware that Hardware is shipped through third party carriers and that delivery times and dates are merely estimates. IXON CANNOT BE HELD LIABLE FOR ANY DAMAGES AS A RESULT OF DELAY IN DELIVERY OF HARDWARE.
- 5.2 The manner of transport, shipping, packaging will at all times be determined by IXON. Provided Customer will pay the extra cost and expenses, Customer may request expedited delivery of Hardware through shipment by air.
- 5.3 Unless agreed upon otherwise by both parties, the risk of loss or damage to Hardware shall pass to Customer at the moment of shipment to Customer.
- 5.4 Unless agreed in writing differently, delivery of Hardware shall be made DAP (Delivery at Place, at the location set forth in the Agreement or on the invoice), as this term is specified in the Incoterms 2020. Customer must accept delivery of Hardware during normal business hours, failing which all costs arising thereof (including storage charges and freight charges) shall be charged in conformity with IXON's rates or local charges.
- 5.5 Customer-requested order changes, including those affecting the identity, scope and delivery of the Hardware, must be documented in writing and are subject to IXON's prior approval and adjustments in price, scheduling and other affected terms and conditions. In any event, IXON reserves the right to reject any change that it deems unfeasible, unsafe, technically inadvisable or inconsistent with established engineering or quality guidelines and standards, or incompatible with IXON's design or manufacturing capabilities. IXON further reserves the right to substitute using the latest superseding revision or series or equivalent Hardware having comparable form, fit and function.
- 5.6 Cancellation by Customer prior to shipment is permitted only by written notice and is subject to IXON's prior written approval. In any event, IXON reserves the right to reject Customer-requested order cancellations that it deems unfeasible. IXON further reserves the right to reasonable cancellation and restocking charges, including reimbursement for direct costs. Cancellation charges associated with orders for custom Hardware or Hardware specifically manufactured to Customer's specification may equal the actual selling price of the Hardware.
- 5.7 If other circumstances occur than those known to IXON when establishing the delivery time, it is entitled and authorized to extend the delivery time as necessary to perform under the agreement.
- 5.8 In the event delivery is not made within the agreed upon timeframe, as determined in the sole discretion of IXON, the Customer must give notice of default in writing to IXON. After receipt of such notice, IXON shall have a minimum of fourteen (14) days to deliver the Hardware and cure the default without incurring any liability.

6 Inspection, Acceptance of Hardware, Returns

- 6.1 Claims in connection to shortages or errors in shipments, or obvious defects in Hardware, must be reported in writing to IXON within two (2) business days of receipt of such shipment. If Customer fails to timely report such shortages or errors, IXON will have no obligation to correct such shipments, unless Customer bears all the expenses thereof. In case of any timely reported alleged Defects of the Hardware upon delivery, the procedures and conditions of Article 10 below apply.
- 6.2 Customer-requested Hardware returns that are not related to any Hardware defects, shortages or errors in shipment are subject to IXON prior written approval. If the return is approved by IXON, Customer is responsible for paying all shipment costs of sending the Hardware to IXON, including any additional taxes, duties, levies or fees. Customer is also responsible for proper packaging of the Hardware and bears the risk of loss or damage to the Hardware during shipment.



7 Intellectual Property Ownership and Right of Use

- 7.1 All intellectual property rights, e.g., patents, copyrights, trademarks, designs, models, know-how and all proprietary and/or commercial rights and trade secret rights, tools, documentations, etc., in relation to the Hardware, are owned by IXON or its licensor(s). No transfer or other grant of rights is given to Customer, unless explicitly stated in writing. This applies even if Hardware has been specifically designed, developed or compiled for Customer.
- 7.2 The Customer will have a personal non-exclusive, non-transferable and non-sub-licensable license to use the Hardware for Customer's own use while the Customer complies with these Terms and the Agreement.
- 7.3 Unless otherwise agreed in writing, Customer may not make repairs or modifications to the Hardware, nor allow or enable any third parties to do so. Customer may not, nor may it enable and/or allow third parties to reverse engineer, copy, display or distribute any Hardware, without IXON's prior approval.

8 Confidential Information and Privacy

- 8.1 "Confidential Information" means (i) the existence and terms of the Agreement and (ii) any non-public, confidential or proprietary information relating to a disclosing Party, including any that is designated by the disclosing Party as confidential information at the time of its disclosure, either by a written or visual confidentiality designation, or otherwise if such information would, under the circumstances, appear to a reasonable person to be confidential or proprietary. Notwithstanding the foregoing, Confidential Information does not include information, data or know-how which: (i) is in the public domain at the time of disclosure or becomes available thereafter to the public without restriction, and in either case not as a result of the act or omission of the receiving Party; (ii) is rightfully obtained by the receiving Party from a third party without restriction as to disclosure; (iii) is lawfully in the possession of the receiving Party at the time of disclosure by the disclosing Party and not otherwise subject to restriction on disclosure; (iv) is approved for disclosure by prior written authorization of the disclosing Party; or (v) is developed independently and separately by either Party without use of the disclosing Party's Confidential Information.
- 8.2 Each Party agrees that it will safeguard the confidentiality of the Confidential Information supplied by the other Party and that it will observe the same due care with respect to such information as it would observe with respect to its own Confidential Information. The other Party shall not sell, copy and/or distribute in any way Confidential Information to third parties, without disclosing Party's prior written consent, which consent may be granted or withheld in such Party's sole and absolute discretion.
- 8.3 Immediately following the receipt of a written request by the disclosing Party, the receiving Party will return any and all Confidential Information received from the disclosing Party or destroy such Confidential Information, if the disclosing Party so requests.
- 8.4 IXON shall process any personal data received from Customer in accordance with applicable data protection laws and regulations. More information regarding the processing of personal data can be found in the privacy statement on our website at <https://www.ixon.cloud/privacy-and-cookie-statement>.

9 Cancellation, Termination and Suspension of Performance

- 9.1 If Customer believes that IXON has failed to perform under the Agreement, it must notify IXON in writing and allow twelve (12) weeks for IXON to cure the alleged performance failure.
- 9.2 If Customer fails to make payment of any amount due on the due date or Customer otherwise fails to perform its obligations under the Agreement or these Terms, IXON may in its sole and absolute discretion suspend performance under the Agreement with Customer and/or terminate the



Agreement (in whole or part), with immediate effect, without being liable for any damages to Customer.

- 9.3 Notwithstanding the above and without any obligation to return any prepaid sums, IXON may terminate its relationship with Customer, or may terminate or suspend IXON's delivery of Hardware at any time: (i) if Customer is in breach of these Terms and/or the Agreement; (ii) if IXON reasonably suspects that Customer is using the Hardware to breach the law or infringe third party rights; (iii) if IXON reasonably suspects that Customer is trying to unfairly exploit or misuse the complaint policy, or any of IXON's policies; (iv) if IXON reasonably suspects that Customer is using the Hardware fraudulently, or that Hardware provided to Customer are being used by a third party fraudulently; (v) for a force majeure event that continues for more than thirty (30) days; (vi) if Customer fails to pay any amounts due to IXON; (vii) if required due to change in laws/regulation by a regulator or authority with a lawful mandate; (viii) in respect to a particular Hardware, upon thirty (30) days' notice if IXON decides to cease offering that Hardware; (ix) the bankruptcy of the Customer has been applied for; (x) an attachment is levied on the goods of Customer; (xi) Customer is liquidated or discontinued; and/or (xii) Customer is in violation of any applicable laws or regulations.
- 9.4 Upon suspension and/or termination of the Agreement, all invoiced sums will become immediately due and payable.

10 Hardware Use and Limited Warranty

- 10.1 The use of the Hardware is at Customer's own expense and risk. Customer must properly install and use the Hardware in accordance with the IXON manuals and instructions. Customer is solely responsible for meeting the technical and functional requirements for use of the Hardware, such as proper electronic communication facilities, as instructed by IXON.
- 10.2 IXON provides a limited warranty as described herein. The IXON warranty is for a period of two (2) years as of the date of our delivery of the Hardware to Customer and covers parts only. The IXON warranty is limited to a lack of conformity caused by Defects, which appear under proper use in conformity with the installation manual of the Hardware available at IXON's website (the "Manual"). The IXON warranty does not cover the (return) shipping costs of defective parts or Hardware to IXON. The Party shipping Hardware to the other Party is responsible for proper packaging of the Hardware and bears the risk of loss or damage to the Hardware during shipment. The IXON warranty does not cover faults or damages resulting from parts that were specifically designed and/or manufactured by IXON for Customer in accordance with Customer's specifications.
- 10.3 The IXON warranty will be valid only if:
- The Hardware has been installed and maintained conform the Manual and the instructions of IXON.
 - The Hardware has been used by Customer for its intended use only,
 - Customer strictly complies with all obligations set forth in the Agreement and these Terms.
- 10.4 In case of a defect, Customer must
- contact IXON immediately, but not later than five (5) days after the defect first occurred, was first discovered, or reasonably should have been discovered. Any claim must be substantiated by clear pictures and explanation of the experienced defect.
 - allow IXON to inspect the Hardware during regular business hours and any defective parts must be made available for inspection by IXON and should be shipped to IXON upon first request. Before shipping any Hardware to IXON, Customer must follow the Return Merchandise Authorization procedure as described on the IXON website (<https://www.ixon.cloud/rma-procedure>).
 - follow all additional instructions by IXON.
- 10.5 The IXON warranty does not cover faults or damages arising from improper storage, installation, unauthorized use or misuse of Hardware, and improper or defective environmental circumstances, or a failure caused by a product for which IXON is not responsible. The IXON warranty does not cover SIM cards, which are covered by warranty of the SIM card supplier, if any.



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- 10.6 The IXON warranty will become null and void in case of unauthorized modifications, repairs, or additions to the Hardware, incorrect maintenance or maintenance by unauthorized persons, or the installation and/or use of parts in the Hardware that are not authorized by IXON.
- 10.7 The IXON warranty is personal and cannot be transferred or assigned by Customer without prior written approval of IXON.
- 10.8 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND UNLESS STATED IN WRITING BY IXON, ITS LICENSORS, THIRD PARTY SUPPLIERS, AND AFFILIATES HEREBY DISCLAIM ALL WARRANTIES, CONDITIONS, CLAIMS OR REPRESENTATIONS WITH RESPECT TO THE IXON HARDWARE, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, QUALITY, NON-INFRINGEMENT, COMPATIBILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. SPECIFICALLY, IXON DOES NOT WARRANT INTERNET OR ANY OTHER DATA CONNECTION WITH THE HARDWARE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM IXON OR ELSEWHERE WILL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THESE TERMS.

11 Liability, Limitation of Damages and Indemnification

- 11.1 IN NO EVENT SHALL IXON, ITS AFFILIATES OR ITS LICENSORS BE LIABLE, AND WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER FORM OF LIABILITY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF INCOME, BUSINESS, SALES, PROFITS (WHETHER ACTUAL OR ANTICIPATED), LOSS OF OR CORRUPTION TO DATA, OR INTERRUPTION OF BUSINESS.
- 11.2 NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT TO THE CONTRARY, IXON'S AGGREGATE LIABILITY ARISING OUT OF THE AGREEMENT, OR IN CONNECTION WITH ANY SALE OR USE OF ANY OF THE HARDWARE, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON ANY CONTRACT, WARRANTY, TORT OR OTHERWISE, SHALL IN NO CASE EXCEED THE TOTAL OF AMOUNTS PAID TO IXON FOR HARDWARE DELIVERED PURSUANT TO THE AGREEMENT, DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST DATE OF THE LIABILITY CLAIM OR \$100,000, WHICHEVER IS LESS.
- 11.3 THE LIMITATIONS ON IXON'S LIABILITY ABOVE SHALL APPLY WHETHER OR NOT IXON, ITS EMPLOYEES, LICENSORS OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.

12 Severability

If any provision of these Terms, the Agreement or any other agreement between the Parties, is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, (i) such provision shall be deemed to be restated to reflect as nearly as possible the original meaning of the terms or agreement in accordance with applicable law, and (ii) the remaining terms, provisions, covenants and restrictions shall remain in full force and effect.

13 Indemnification

CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD IXON, ITS PRESENT AND FUTURE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, DISTRIBUTORS AND ITS AFFILIATES, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, PENALTIES, LIABILITY AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES, IN CONNECTION WITH, OR ARISING OUT OF CUSTOMER'S BREACH OF THE AGREEMENT OR THESE TERMS, OR ARISING OUT OF ANY USE, DISTRIBUTION, OR SALE OF THE IXON HARDWARE BY



CUSTOMER, UNLESS SUCH WAS THE RESULT OF IXON'S WILFUL MISCONDUCT, GROSS NEGLIGENCE OR FRAUD.

14 Force Majeure

In no event shall either Party be liable to the other Party, or be deemed to have breached these Terms and any other agreement between Customer and IXON, for any failure or delay in performing its obligations (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, pandemic, including Covid19, related causes, such as governmental measures or supply chain disruptions, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo. Furthermore, IXON is not liable whatsoever if it is prevented from or delayed in performing its obligations by acts, events, omissions or accidents because of (i) the failure to properly fulfill obligations on the part of suppliers that were prescribed by Customer, (ii) defects in items, equipment, software or materials of third parties, (iii) power failures, (iv) internet, data network or telecommunication facilities failures, and/or (v) network attacks.

15 Assignment

Customer is not permitted to assign, delegate or otherwise transfer the Agreement or any rights hereunder. Any such attempted assignment, delegation or transfer will be null and void. IXON is permitted at its sole discretion to assign the Agreement or any rights or obligations hereunder to any third party, without giving prior notice.

16 Entire Agreement

The Agreement and these Terms contain the entire agreement between IXON and Customer regarding Customer's purchase of the Hardware, and supersedes and replaces any previous communications, representations or agreements, or Customer's additional or inconsistent terms, whether oral or written.

17 No Waiver

The failure to exercise, or delay in exercising, a right, power or remedy provided by the Agreement, these Terms or the law shall not constitute a waiver of that right, power or remedy. If IXON waives Customer's breach of any provision of these Terms or the Agreement, such waiver shall not operate as a waiver of a subsequent breach of that provision or as a waiver of a breach of any other provision.

18 No Beneficiaries

Any agreement between the parties is for the sole benefit of the parties thereto and, except as otherwise contemplated therein, nothing therein expressed or implied shall give or be construed to give any person, other than the parties thereto, any legal or equitable rights thereunder.

19 No Partnership

Nothing contained in any agreement between the parties shall be read or construed so as to constitute the relationship of principal and agent or of partnership between the parties. Neither of



the parties may pledge or purport to pledge the credit of the other Party or make or purport to make any representations, warranties, or undertakings for the other Party.

20 Injunctive Relief

Customer acknowledges that IXON shall suffer irreparable injury in case of breach of the obligations under Articles 7 and 8. Accordingly, in the event of such breach, Customer acknowledges that IXON will be entitled to injunctive relief in any country, state or federal court of competent jurisdiction. Customer further submits to the personal jurisdiction of such courts for the purposes of any such action.

21 Governing Law and Jurisdiction

- 21.1 These Terms and any agreement between you and IXON shall be governed by the laws of the State of New York, USA.
- 21.2 The parties shall try to solve any dispute between them amicably. All disputes and controversies arising out of or relating to these Terms of Use and any agreement between you and IXON shall be finally and bindingly resolved under the Commercial Arbitration Rules of the American Arbitration Association in front of a sole arbitrator. The place of arbitration shall be New York, New York. The language of the arbitration shall be English. Any award, verdict or settlement issued under such arbitration may be entered by any party for order of enforcement by any court of competent jurisdiction.
- 21.3 ANY CAUSE OF ACTION AGAINST A PARTY, REGARDLESS WHETHER IN CONTRACT, TORT OR OTHERWISE, MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.
- 21.4 Should provisions of these Terms be or become invalid in whole or in part, then this shall not affect the validity of the remaining provisions. The parties shall agree to new provisions that follow the purpose of the invalidated provisions as closely as possible.
- 21.5 Changes to management or legal form of a party will not affect an agreement between the parties. We may transfer an agreement or any rights and obligations resulting from an agreement or these Terms of Use to a third party. All rights granted hereunder are personal to you and your company. Your rights and obligations may not be assigned to third parties without our prior written consent.