

# CITY OF DELRAY BEACH



1993  
2001

100 N.W. 1st AVENUE • DELRAY BEACH, FLORIDA 33444 • 561/243-7000

April 22, 2016

Taser International, Inc.  
Attn: Contracts  
17800 N. 85<sup>th</sup> Street  
Scottsdale, AZ 85255

RE: Taser Agreement

Dear Dan Behrendt,

On behalf of the City of Delray Beach, we have herein provided you with an original executed copy of your Agreement with the City of Delray Beach. Please retain this agreement for your records. The City Clerk retains the other official copy of the agreement.

Thank you for your business interest in the City of Delray Beach. If you have any questions, please do not hesitate to contact the City's Purchasing Department.

Sincerely,

A handwritten signature in black ink, appearing to be "S Chapman", written over a horizontal line.

Steve Chapman,  
Purchasing Department  
City of Delray Beach



**MASTER SERVICES AND PURCHASING AGREEMENT**

**between**

**TASER INTERNATIONAL, INC.**

**and**

**Delray Beach Police Dept - FL**

CITY Agreement Number:

## MASTER SERVICES AND PURCHASING AGREEMENT

This Master Agreement (the **Agreement**) by and between TASER International, Inc., (**TASER or Party**) a Delaware corporation having its principal place of business at 17800 N 85<sup>th</sup> Street, Scottsdale, Arizona, 85255, and Delray Beach Police Dept - FL, (**Agency, Party** or collectively **Parties**) having its principal place of business at 300 W. Atlantic Ave., Delray Beach, FL, 33444, is entered into as of May, 31, 2016 (**the Effective Date**).

This Agreement sets forth the terms and conditions for the purchase, delivery, use, and support of TASER products and services as detailed in Quote # Q-59158 (the **Quote**), which is hereby incorporated by reference. It is the intent of the Parties that this Agreement shall act as a master agreement governing all subsequent purchases by Agency of TASER Products and all subsequent quotes accepted by Agency shall be also incorporated by reference as a Quote. In consideration of this Agreement the Parties agree as follows:

- 1 **Term.** This Agreement will commence on the Effective Date and will remain in full force and effect for 5 years, or until terminated by either Party. TASER services will not be authorized until a signed Quote or Purchase Order is received, whichever is first.

- 1.1 **Evidence.com Subscription Term:** The Initial Term of the Subscription services will begin after shipment of the Product. If shipped in 1st half of the month, the start date is on the 1st of the following month. If shipped in the last half of the month, the start date is on the 15th of the following month. If the Parties mutually agree in writing, Subscription Services may renew for additional successive Terms of one (1) year after completion of the initial Term at the list price then in effect.

- 1.2 **Professional Services Term:** Amounts pre-paid for professional services as outlined in the Quote and the Professional Service Appendix must be used within 6 months of the Effective Date.

- 2 **Definitions.**

**"Business Day"** means Monday through Friday, excluding holidays.

**"Confidential Information"** means all nonpublic information disclosed by TASER, TASER affiliates, business partners of TASER or their respective employees, contractors or agents that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential.

**"Documentation"** means the (i) specifications, explanatory or informational materials, whether in paper or electronic form, that relate to the Services provided under this Agreement, or (ii) user manuals, technical manuals, training manuals, warnings, specification or other explanatory or informational materials, whether in paper or electronic form, that relate to the Products provided under this Agreement.

**"Evidence.com Service"** means TASER web services for Evidence.com, the Evidence.com site, EVIDENCE Sync software, EVIDENCE Mobile App, Axon® Mobile App, other software, maintenance, storage, and product or service provided by us under this Agreement for use with Evidence.com. This does not include any Third Party Applications, hardware warranties, or the my.evidence.com services.

**"Installation Site"** means the location(s) where the Products are to be installed.

**"Policies"** means the Trademark Use Guidelines, all restrictions described on the TASER website, and any other policy or terms referenced in or incorporated into this Agreement. Policies do not include whitepapers or other marketing materials.

**"Products"** means all TASER equipment, software, cloud based services, Documentation and software maintenance releases and updates provided by TASER under this Agreement.

**"Quote"** is an offer to sell, is valid only for products and services listed on the quote at prices on the quote. All Quotes referenced in this Agreement or issued and accepted after the Effective Date of this Agreement will be subject to the terms of this Agreement. Any terms and conditions contained within the Agency's purchase order in response to the Quote will be null and void and shall have no force or effect. TASER is not responsible for pricing, typographical, or other errors in any offer by TASER and TASER reserves the right to cancel any orders resulting from such errors. TASER reserves the right to adjust prices or Products unless otherwise specified in the Quote.

**"Resolution Time"** means the elapsed time between TASER's acknowledgment of an issue until the problem in the Services has been resolved, which does not include time delays caused by the Agency or by third parties outside of TASER's reasonable control.

**"Services"** means all services provided by TASER pursuant to this Agreement.

**"Agency Content"** means software, data, text, audio, video, images or other Agency content or any of the Agency's end users (a) run on the Evidence.com Services, (b) cause to interface with the Evidence.com Services, or (c) upload to the Evidence.com Services under the Agency account or otherwise transfer, process, use or store in connection with the Agency account.

- 3 **Payment Terms.** Invoices are due to be paid within 30 days of the date of invoice. All orders are subject to prior credit approval. Payment obligations are non-cancelable and fees paid are non-refundable and all amounts payable will be made without setoff, deduction, or withholding.
- 4 **Taxes.** Unless TASER is provided with a valid and correct tax exemption certificate applicable to the purchase and ship-to location, the Agency is responsible for sales and other taxes associated with the order.
- 5 **Shipping: Title: Risk of Loss: Rejection.** TASER reserves the right to make partial shipments and products may ship from multiple locations. All shipments are E.X.W. via common carrier and title and risk of loss pass to the Agency upon delivery to the common carrier by TASER. The Agency is responsible for all freight charges. Any loss or damage that occurs during shipment is the Agency's responsibility. Shipping dates are estimates only. The Agency may reject nonconforming Product by providing TASER written notice of rejection within 10 days of shipment. Failure to notify TASER within the 10 day rejection period will be deemed as acceptance of Product.
- 6 **Returns.** All sales are final and no refunds or exchanges are allowed, except for warranty returns or

as provided by state or federal law.

## **7 Warranties.**

**7.1 Hardware Limited Warranty.** TASER warrants that its law enforcement hardware products are free from defects in workmanship and materials for a period of ONE (1) YEAR from the date of receipt. Extended warranties run from the date of purchase of the extended warranty through the balance of the 1-year limited warranty term plus the term of the extended warranty measured after the expiration of the 1-year limited warranty. CEW cartridges and Smart cartridges that are expended are deemed to have operated properly. TASER-Manufactured Accessories are covered under a limited 90-DAY warranty from the date of receipt. Non-TASER manufactured accessories are covered under the manufacturer's warranty. If TASER determines that a valid warranty claim is received within the warranty period, TASER agrees to repair or replace the Product. TASER's sole responsibility under this warranty is to either repair or replace with the same or like Product, at TASER's option.

### **7.2 Warranty Limitations.**

**7.2.1** The warranties do not apply and TASER 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-TASER products or from the use of cartridges, batteries or other parts, components or accessories that are not manufactured or recommended by TASER; (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 TASER authorized personnel or without the written permission of TASER; or (e) if any TASER serial number has been removed or defaced.

**7.2.2 To the extent permitted by law, the warranties and the remedies set forth above are exclusive and TASER disclaims all other warranties, remedies, and conditions, whether oral or written, statutory, or implied, as permitted by applicable law. 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 by the other provisions contained in this Agreement.**

**7.2.3 TASER's cumulative liability to any Party for any loss or damage resulting from any claims, demands, or actions arising out of or relating to any TASER product will not exceed the purchase price paid to TASER for the product or if for services, the amount paid for such services over the prior 12 months preceding the claim. In no event will either Party be liable for any direct, special, indirect, incidental, exemplary, punitive or consequential damages, however caused, whether for breach of warranty, breach of contract, negligence, strict liability, tort or under any other legal theory.**

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

- 7.3.1 For warranty return and repair procedures, including troubleshooting guides, please go to TASER's websites [www.taser.com/support](http://www.taser.com/support) or [www.evidence.com](http://www.evidence.com), as indicated in the appropriate product user manual or quick start guide.
- 7.3.2 Before delivering product for warranty service, it is the Agency's responsibility to upload the data contained in the product to the EVIDENCE.com services or download the product data and keep a separate backup copy of the contents. TASER is not responsible for any loss of software programs, data, or other information contained on the storage media or any other part of the product services.
- 7.3.3 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 TASER's property.

- 8 **Product Warnings.** See our website at [www.TASER.com](http://www.TASER.com) for the most current product warnings.
- 9 **Design Changes.** TASER reserves the right to make changes in the design of any of TASER's products and services without incurring any obligation to notify the Agency or to make the same change to products and services previously purchased.
- 10 **Insurance.** TASER will maintain at TASER's own expense and in effect during the Term, Commercial General Liability Insurance, Workers' Compensation Insurance and Commercial Automobile Insurance and will furnish certificates of insurance or self-insurance upon request.
- 11 **Indemnification.** TASER will indemnify and defend the Agency Indemnitees (the Agency's officers, directors, and employees) from and against all claims, demands, losses, liabilities, reasonable costs and expenses arising out of a claim by a third party against an Agency Indemnitee resulting from any negligent act, error or omission, or willful misconduct of TASER under or related to this Agreement, except in the case of negligent acts, omissions or willful misconduct of the Agency or claims that fall under Workers Compensation coverage.
- 12 **IP Rights.** TASER owns and reserves all right, title, and interest in the TASER Products and related software, as well as any suggestions made to TASER.
- 13 **IP Indemnification.** TASER will defend, indemnify, and hold the Agency Indemnitees harmless from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third-party claim alleging that use of TASER Products or Services as permitted under this Agreement infringes or misappropriates the intellectual property rights of a third party. The Agency must provide TASER with prompt written notice of such a claim, tender to us the defense or settlement of such a claim at our expense, and cooperate fully with us in the defense or settlement of such a claim.

TASER has no liability to the Agency or any third party if any alleged infringement or claim of infringement is to any extent based upon: (a) any modification of the Evidence.com Services by the Agency or any third party not approved by TASER; (b) use of the Evidence.com Services in connection or in combination with equipment, devices, or services not approved or recommended by TASER; (c) the use of Evidence.com Services other than as permitted under this Agreement or in a manner for

which it was not intended; or (d) the use of other than the most current release or version of any software provided by TASER as part of or in connection with the Evidence.com Services. Nothing in this Section will affect any warranties in favor of the Agency that are otherwise provided in or arise out of this Agreement.

- 14** **Agency Responsibilities.** The Agency is responsible for (i) use of TASER Products (including any activities under the Agency Evidence.com account and use by Agency employees and agents), (ii) breach of this Agreement or violation of applicable law by the Agency or any of the Agency's end users, (iii) Agency Content or the combination of Agency Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third party rights by Agency Content or by the use of Agency Content, (iv) a dispute between the Agency and any third party over Agency use of TASER products or the collection or use of Agency Content, (v) any hardware or networks that the Agency connects to the Evidence.com Services, and (vi) any security settings the Agency establishes to interact with or on the Evidence.com Services.

**15** **Termination.**

**15.1 By Either Party.** Either Party may terminate for cause upon 30 days advance notice to the other Party if there is any material default or breach of this Agreement by the other Party, unless the defaulting Party has cured the material default or breach within the 30-day notice period. In the event that the Agency terminates this Agreement under this Section and TASER fails to cure the material breach or default, TASER will issue a refund of any prepaid amounts on a prorated basis.

**15.2 Non-Appropriations.** The Agency is obligated to pay the fees under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during the then current fiscal year. In the event that sufficient funds will not be appropriated or are not otherwise legally available to pay the fees required under this Agreement, this Agreement may be terminated by the Agency. The Agency agrees to deliver notice of termination under this Section at least 90 days prior to the end of the then current fiscal year.

**15.3 Termination for Convenience.** Agency may terminate this Agreement for any reason without cause upon 60 days' notice to TASER.

**15.4 Effect of Termination.** Upon any termination of this Agreement: (a) all Agency rights under this Agreement immediately terminate; (b) the Agency remains responsible for all fees and charges incurred through the date of termination; and (c) Payment Terms, Warranty, Product Warnings, Indemnification, and Agency Responsibilities Sections, as well as the Evidence.com Terms of Use Appendix Sections on Agency Owns Agency Content, Data Storage, Fees and Payment, Software Services Warranty, IP Rights and License Restrictions will continue to apply in accordance with their terms.

**15.5 After Termination.** TASER will not delete any Agency Content as a result of a termination during a period of 90 days following termination. During this 90-day period the Agency may retrieve Agency Content only if all amounts due have been paid (there will be no application functionality of the Evidence.com Services during this 90-day period other than the ability to retrieve Agency Content). The Agency will not incur any additional fees if Agency Content is

downloaded from Evidence.com during this 90-day period. TASER has no obligation to maintain or provide any Agency Content after this 90-day period and will thereafter, unless legally prohibited, delete all of Agency Content stored in the Evidence.com Services. Upon request, TASER will provide written proof that all Agency Content has been successfully deleted and fully removed from the Evidence.com Services.

**15.6 Post-Termination Assistance.** TASER will provide Agency with the same post-termination data retrieval assistance that TASER generally makes available to all customers. Requests for TASER to provide additional assistance in downloading or transferring Agency Content will result in additional fees and TASER will not warrant or guarantee data integrity or readability in the external system.

**16 Public Records.** Contractor shall comply with all public records laws in accordance with Chapter 119, Fla. Stat. In accordance with state law, Contractor agrees to:

**16.1** Keep and maintain all records that ordinarily and necessarily would be required by the City.

**16.2** Provide the public with access to public records on the same terms and conditions that the City would provide for the records and at a cost that does not exceed the costs provided in Chapter 119, Fla. Stat. or as otherwise provided by law.

**16.3** Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law.

**16.4** Meet all requirements for retaining public records and transfer, at no cost, to the City all records in possession of the Contractor at the termination of the contract and destroy any public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City. All records shall be transferred to the City prior to final payment being made to the Contractor.

**16.5** If Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

**17 Inspector General.** Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from Contractor and its subcontractors and lower tier subcontractors. Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Contractor or its subcontractor or lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

**18 General.**

**18.1 Confidentiality.** Both Parties will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of either Party's Confidential Information. Except as required by applicable law, neither Party will disclose either Party's Confidential Information during the Term or at any time during the 5-year period following the end of the Term. All TASER Pricing is considered confidential and competition sensitive.

**18.2 Excusable delays.** TASER will use commercially reasonable efforts to deliver all products and services ordered as soon as reasonably practicable. In the event of interruption of any delivery due to causes beyond TASER's reasonable control TASER has the right to delay or terminate



the delivery with reasonable notice.

- 18.3 Force Majeure.** Neither Party will be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond the Parties' reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.
- 18.4 Proprietary Information.** The Agency agrees that TASER has and claims various proprietary rights in the hardware, firmware, software, and the integration of ancillary materials, knowledge, and designs that constitute TASER products and services, and that the Agency will not directly or indirectly cause any proprietary rights to be violated.
- 18.5 Independent Contractors.** The Parties are independent contractors. Neither Party, nor any of their respective affiliates, has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.
- 18.6 No Third Party Beneficiaries.** This Agreement does not create any third party beneficiary rights in any individual or entity that is not a party to this Agreement.
- 18.7 Non-discrimination and Equal Opportunity.** During the performance of this Agreement, neither the Parties nor the Party's employees will discriminate against any person, whether employed by a Party or otherwise, on the basis of basis of race, color, religion, gender, age, national origin, handicap, marital status, or political affiliation or belief. In all solicitations or advertisements for employees, agents, subcontractors or others to be engaged by a Party or placed by or on behalf of a Party, the solicitation or advertisement shall state all qualified applicants shall receive consideration for employment without regard to race, color, religion, gender, age, national origin, handicap, marital status, or political affiliation or belief.
- 18.8 U.S. Government Rights.** Any Evidence.com Services provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" will have the same rights and restrictions generally applicable to the Evidence.com Services. If the Agency is using the Evidence.com Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, the Agency will immediately discontinue use of the Evidence.com Services. The terms "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data" are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.
- 18.9 Import and Export Compliance.** In connection with this Agreement, each Party will comply with all applicable import, re- import, export, and re-export control laws and regulations.
- 18.10 Assignment.** Neither Party may assign or otherwise transfer this Agreement without the prior

written approval of the other Party, which will not be unreasonably withheld. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.

- 18.11 No Waivers.** The failure by either Party to enforce any provision of this Agreement will not constitute a present or future waiver of the provision nor limit the Party's right to enforce the provision at a later time.
- 18.12 Severability.** This Agreement is contractual and not a mere recital. If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect.
- 18.13 Governing Law; Venue.** The laws of the state where the Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute of any sort that might arise between the Parties. The United Nations Convention for the International Sale of Goods does not apply to this Agreement. Any legal proceedings concerning this Agreement will be conducted in Palm Beach County, Florida.
- 18.14 Notices.** All communications and notices to be made or given pursuant to this Agreement must be in the English language. Notices provided by posting on the Agency's Evidence.com site will be effective upon posting and notices provided by email will be effective when the email was sent. Notices provided by personal delivery will be effective immediately. Contact information for notices:

TASER: TASER International, Inc.  
ATTN: Contracts  
17800 N. 85th Street  
Scottsdale, Arizona 85255  
contracts@taser.com

AGENCY:

- 18.15 Entire Agreement.** This Agreement, including the APPENDICES attached hereto, and the Policies and the quote provided by TASER, represents the entire agreement between the Parties. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between the Parties, whether written or verbal, regarding the subject matter of this Agreement. No modification or amendment of any portion of this Agreement will be effective unless in writing and signed by the Parties to this Agreement. If TASER provides a translation of the English language version of this Agreement, the English language version of the Agreement will control if there is any conflict.
- 18.16 Counterparts.** If this Agreement form requires the signatures of the Parties, then this Agreement may be executed by electronic signature in multiple counterparts, each of which is considered an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed. Each Party warrants and represents that its respective signatories whose signatures appear below have been and are,



on the date of signature, duly authorized to execute this Agreement.

**TASER International, Inc.**  
Signature: *[Signature]*  
Name: Don Behrendt  
Title: CFO  
Date: 4/8/16  
Address: 17800 N. 85th Street Scottsdale, AZ 85255

Attn: Contracts

Email: [contracts@taser.com](mailto:contracts@taser.com)

*Approved or to firm*  
*[Signature]*

**Delray Beach Police Dept - FL**  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: 300 W. Atlantic Ave., Delray Beach, FL, 33444

CITY OF DELRAY BEACH

By: *[Signature]*  
Cary Glickstein, Mayor  
*Kimberly Ryan*  
Acting City Clerk

## Evidence.com Terms of Use Appendix

- 1 **Access Rights.** Upon the purchase or granting of a subscription from TASER and the opening of an Evidence.com account the Agency will have access and use of the Evidence.com Services for the storage and management of Agency Content during the subscription term (**Term**). The Evidence.com Service and data storage are subject to usage limits. The Evidence.com Service may not be accessed by more than the number of end users specified in the Quote. If Agency becomes aware of any violation of this Agreement by an end user, the Agency will immediately terminate that end user's access to Agency Content and the Evidence.com Services.
- 2 **Agency Owns Agency Content.** The Agency controls and owns all right, title, and interest in and to Agency Content and TASER obtains no rights to the Agency Content and the Agency Content are not business records of TASER. The Agency is solely responsible for the uploading, sharing, withdrawal, management and deletion of Agency Content. TASER will have limited access to Agency Content solely for the purpose of providing and supporting the Evidence.com Services to the Agency and Agency end users. The Agency represents that the Agency owns Agency Content; and that none of Agency Content or Agency end users' use of Agency Content or the Evidence.com Services will violate this Agreement or applicable laws.
- 3 **Evidence.com Data Security.**
  - 3.1. **Generally.** TASER will implement commercially reasonable and appropriate measures designed to secure Agency Content against accidental or unlawful loss, access or disclosure. TASER will maintain a comprehensive Information Security Program (**ISP**) that includes logical and physical access management, vulnerability management, configuration management, incident monitoring and response, encryption of digital evidence uploaded, security education, risk management, and data protection. The Agency is responsible for maintaining the security of end user names and passwords and taking steps to maintain appropriate security and access by end users to Agency Content. Log-in credentials are for Agency internal use only and Agency may not sell, transfer, or sublicense them to any other entity or person. The Agency agrees to be responsible for all activities undertaken by the Agency, Agency employees, Agency contractors or agents, and Agency end users which result in unauthorized access to the Agency account or Agency Content. Audit log tracking for the video data is an automatic feature of the Services which provides details as to who accesses the video data and may be downloaded by the Agency at any time. The Agency shall contact TASER immediately if an unauthorized third party may be using the Agency account or Agency Content or if account information is lost or stolen.
  - 3.2. **FBI CJIS Security Addendum.** For customers based in the United States, TASER agrees to the terms and requirements set forth in the Federal Bureau of Investigation (**FBI**) Criminal Justice Information Services (**CJIS**) Security Addendum for the Term of this Agreement.
- 4 **Our Support.** TASER will make available updates as released by TASER to the Evidence.com Services. Updates may be provided electronically via the Internet. TASER will use reasonable efforts to continue supporting the previous version of any API or software for 6 months after the change (except if doing so (a) would pose a security or intellectual property issue, (b) is economically or technically

burdensome, or (c) is needed to comply with the law or requests of governmental entities. The Agency is responsible for maintaining the computer equipment and Internet connections necessary for use of the Evidence.com Services.

- 5 **Data Privacy.** TASER will not disclose Agency Content or any information about the Agency except as compelled by a court or administrative body or required by any law or regulation. TASER will give notice if any disclosure request is received for Agency Content so the Agency may file an objection with the court or administrative body. The Agency agrees to allow TASER access to certain information from the Agency in order to: (a) perform troubleshooting services for the account upon request or as part of our regular diagnostic screenings; (b) enforce this agreement or policies governing use of Evidence.com Services; or (c) perform analytic and diagnostic evaluations of the systems.
- 6 **Data Storage.** TASER will determine the locations of the data centers in which Agency Content will be stored and accessible by Agency end users. For United States customers, TASER will ensure that all Agency Content stored in the Evidence.com Services remains within the United States including any backup data, replication sites, and disaster recovery sites. TASER may transfer Agency Content to third parties for the purpose of storage of Agency Content. Third party subcontractors responsible for storage of Agency Content are contracted by TASER for data storage services. Ownership of Agency Content remains with the Agency. For use of an Unlimited Evidence.com License unlimited data may be stored in the Agency's Evidence.com account if the data originates from a TASER device. For use of Totally Unlimited Evidence.com Licenses TASER reserves the right to limit the types of content the Agency can store and share using the Services.
- 7 **Fees and Payment.** Additional end users may be added during the Term at the pricing in effect at the time of purchase of additional end users, prorated for the duration of the Term. Additional end user accounts will terminate on the same date as the pre-existing subscriptions. TASER reserves the right to charge additional fees for exceeding purchased storage amounts or for TASER's assistance in the downloading or exporting of Agency Content.
- 8 **Suspension of Evidence.com Services.** TASER may suspend Agency access or any end user's right to access or use any portion or all of the Evidence.com Services immediately upon notice in accordance with the following:
- 8.1. The Termination provisions of the Master Service Agreement apply;
  - 8.2. The Agency or an end user's use of or registration for the Evidence.com Services (i) poses a security risk to the Evidence.com Services or any third party, (ii) may adversely impact the Evidence.com Services or the systems or content of any other customer, (iii) may subject TASER, TASER's affiliates, or any third party to liability, or (iv) may be fraudulent;
  - 8.3. If TASER suspends the right to access or use any portion or all of the Evidence.com Services, the Agency remains responsible for all fees and charges incurred through the date of suspension without any credits for any period of suspension. TASER will not delete any of Agency Content on Evidence.com as a result of a suspension, except as specified elsewhere in this Agreement.
- 9 **Software Services Warranty.** TASER warrants that the Evidence.com Services will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. TASER

disclaims any warranties or responsibility for data corruption or errors before the data is uploaded to the Evidence.com Services.

- 10**     **License Restrictions.** Neither the Agency nor any Agency end users may, or attempt to: (a) permit any third party to access the Evidence.com Services except as permitted in this Agreement; (b) modify, alter, tamper with, repair, or otherwise create derivative works of any of the Evidence.com Services; (c) reverse engineer, disassemble, or decompile the Evidence.com Services or apply any other process or procedure to derive the source code of any software included in the Evidence.com Services, or allow any others to do the same; (d) access or use the Evidence.com Services in a way intended to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas; (e) copy the Evidence.com Services in whole or part, except as expressly permitted in this Agreement; (f) use trade secret information contained in the Evidence.com Services, except as expressly permitted in this Agreement; (g) resell, rent, loan, or sublicense the Evidence.com Services; (h) access the Evidence.com Services in order to build a competitive product or service or copy any features, functions, or graphics of the Evidence.com Services; (i) remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of ours or our licensors on or within the Evidence.com Services or any copies of the Evidence.com Services; or (j) use the Evidence.com Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, to store or transmit material in violation of third party privacy rights, or to store or transmit malicious code. All licenses granted in this Agreement are conditional on continued compliance this Agreement, and will immediately and automatically terminate if the Agency does not comply with any term or condition of this Agreement. The Agency may only use our trademarks in accordance with the TASER Trademark Use Guidelines (located at [www.TASER.com](http://www.TASER.com)).

## Professional Services Appendix

**1**     **Scope of Services.** The project scope will consist of the Services identified on the Quote.

**1.1.**     The Package for the Axon and Evidence.com related Services are detailed below:

<p><b>System set up and configuration</b>  Setup Axon® Mobile on smart phones (if applicable).  Configure categories &amp; custom roles based on Agency need.  Troubleshoot IT issues with Evidence.com and Evidence.com Dock (Dock) access.  Work with IT to install EVIDENCE Sync software on locked-down computers (if applicable).  One on-site session Included</p>
<p><b>Dock installation</b>  Work with Agency to decide ideal location of Dock setup and set configurations on Dock if necessary.  Authenticate Dock with Evidence.com using "admin" credentials from Agency.  Work with Agency's IT to configure its network to allow for maximum bandwidth and proper operation within Agency's network environment.  On site Assistance Included</p>
<p><b>Dedicated Project Manager</b>  Assignment of a specific TASER representative for all aspects of planning the Product rollout (Project Manager). Ideally, the Project Manager will be assigned to the Agency 4–6 weeks prior to rollout.</p>
<p><b>Weekly project planning meetings</b>  Project Manager will develop a Microsoft Project plan for the rollout of Axon camera units, Docks and Evidence.com account training based on size, timing of rollout and Agency's desired level of training. Up to 4 weekly meetings leading up to the Evidence.com Dock installation of not more than 30 minutes in length.</p>
<p><b>Best practice implementation planning session—1 on-site session to:</b>  Provide considerations for establishment of video policy and system operations best practices based on TASER's observations with other agencies.  Discuss importance of entering metadata in the field for organization purposes and other best practice for digital data management.  Provide referrals of other agencies using the Axon camera products and Evidence.com services  Create project plan for larger deployments.  Recommend rollout plan based on review of shift schedules.</p>
<p><b>System Admin and troubleshooting training sessions</b>  2 on-site sessions—each providing a step-by-step explanation and assistance for Agency's configuration of security, roles &amp; permissions, categories &amp; retention, and other specific settings for Evidence.com.</p>
<p><b>Axon instructor training</b>  Prior to general user training on Axon camera systems and Evidence.com services, TASER's on-site professional services team will provide training for instructors who can support the Agency's subsequent Axon camera and Evidence.com training needs.</p>
<p><b>End user go live training and support sessions</b>  Provide individual device set up and configuration assistance; pairing with viewers when applicable; and training on device use, Evidence.com and EVIDENCE Sync.</p>
<p><b>Implementation document packet</b>  Evidence.com administrator guides, camera implementation guides, network setup guide, sample policies, and categories &amp; roles guide</p>

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**Post go live review session**

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- 1.2. Additional training days may be added on to any service package for additional fees set forth in the Quote.
- 2 **Out of Scope Services.** TASER is responsible to perform only the Services described on the Quote. Any additional services discussed or implied that are not defined explicitly by the Quote will be considered out of the scope.
- 3 **Delivery of Services.**
  - 3.1. **Hours and Travel.** TASER personnel will work within normal business hours, Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays unless otherwise agreed in advance. All tasks on-site will be performed over a consecutive timeframe unless otherwise agreed to by the Parties in advance. Travel time by TASER personnel to Agency premises will not be charged as work hours performed.
  - 3.2. **Changes to Services.** Changes to the scope of Services must be documented and agreed upon by the Parties in a change order. Changes may require an equitable adjustment in the charges or schedule.
- 4 **Authorization to Access Computer Systems to Perform Services.** The Agency authorizes TASER to access relevant Agency computers and network systems solely for the purpose of performing the Services. TASER will work diligently to identify as soon as reasonably practicable the resources and information TASER expects to use, and will provide an initial itemized list to the Agency. The Agency is responsible for, and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by the Agency.
- 5 **Site Preparation and Installation.** Prior to delivering any Services, TASER will provide 1 copy of the then-current user documentation for the Services and related Products in paper or electronic form (**Product User Documentation**). The Product User Documentation will include all environmental specifications that must be met in order for the Services and related Products to operate in accordance with the Product User Documentation. Prior to the installation of Product (whether performed by the Agency or TASER), the Agency must prepare the Installation Site in accordance with the environmental specifications set forth in the Product User Documentation. Following the installation of the Products, the Agency must maintain the Installation Site where the Products have been installed in accordance with the environmental specifications set forth in the Product User Documentation. In the event that there are any updates or modifications to the Product User Documentation for any Products provided by TASER under this Agreement, including the environmental specifications for the Products, TASER will provide the updates or modifications to Agency when they are generally released by TASER to TASER customers.
- 6 **Acceptance Checklist.** TASER will present an Acceptance Checklist (**Checklist**) upon completion of



the Services that will exactly mirror the description of services within this Section. The Agency will sign the Checklist acknowledging completion of the Services once the on-site service session has been completed. If the Agency reasonably believes that TASER did not complete the Services in substantial conformance with this Agreement, the Agency must notify TASER in writing of the specific reasons for rejection of the Services within 7 calendar days from delivery of the Checklist. TASER will address the issues and then will re-present the Checklist for approval and signature. If TASER does not receive the signed Checklist or a written notification of the reasons for the rejection of the performance of the Services within 7 calendar days of delivery of the Checklist, the absence of the Agency response will constitute affirmative acceptance of the Services, and a waiver of any right of rejection.

- 7** **Liability for Loss or Corruption of Data.** The Agency is responsible for: (i) instituting proper and timely backup procedures for Agency software and data; (ii) creating timely backup copies of Agency software or data that may be damaged, lost, or corrupted due to our provision of Services; and (iii) using backup copies to restore any Agency software or data in the event of any loss of, damage to, or corruption of the operational version of Agency software or data, even if such damage, loss, or corruption is due to TASER negligence. However, regardless of any assistance provided by TASER: (i) TASER will in no way be liable for the accuracy, completeness, success, or results of efforts to restore Agency software or data; (ii) any assistance provided by TASER under this Section is without warranty, express or implied; and (iii) in no event will TASER be liable for loss of, damage to, or corruption of Agency data from any cause.

## TASER Assurance Plan Appendix

The TASER Assurance Plan or "TAP" has been purchased as part of the Quote attached to this Agreement. TAP provides hardware extended warranty coverage, Spare Products, and Upgrade Models at the end of the TAP Term. TAP only applies to the TASER Product listed in the Quote with the exception of any initial hardware or any software services offered for, by, or through the Evidence.com website. The Agency may not buy more than one TAP for any one covered Product.

- 1 **TAP Warranty Coverage.** TAP includes the extended warranty coverage described in the current hardware warranty. TAP warranty coverage starts at the beginning of the TAP Term and continues as long as the Agency continues to pay the required annual fees for TAP. The Agency may not have both an optional extended warranty and TAP on the Axon camera/Dock product. TAP for the Axon camera products also includes free replacement of the Axon flex controller battery and Axon body battery during the TAP Term for any failure that is not specifically excluded from the Hardware Warranty.
- 2 **TAP Term.** TAP Term start date is based upon the shipment date of the hardware covered under TAP. If the shipment of the hardware occurred in the first half of the month, then the Term starts on the 1st of the following month. If the shipment of the hardware occurred in the second half of the month, then the Term starts on the 15th of the following month. The TAP Term will end 5 years from the TAP Term start date.
- 3 **SPARE Product.** TASER will provide a predetermined number of spare Products for those hardware items and accessories listed in the Quote (collectively the "Spare Products") to keep at the Agency location to replace broken or non-functioning units in order to improve the availability of the units to officers in the field. The Agency must return to TASER, through TASER's RMA process, any broken or non-functioning units for which a Spare Product is utilized, and TASER will repair or replace the non-functioning unit with a replacement product. TASER warrants it will repair or replace the unit which fails to function for any reason not excluded by the TAP warranty coverage, during the TAP Term with the same product or a like product, at TASER's sole option. The Agency may not buy a new TAP for the replacement product or the Spare Product.
  - 3.1. Within 30 days of the end of the TAP Term the Agency must return to TASER all Spare Products. The Agency will be invoiced for and are obligated to pay to TASER the MSRP then in effect for all Spare Products not returned to TASER. If all the Spare Products are returned to TASER, then TASER will refresh the allotted number of Spare Products with Upgrade Models if the Agency purchases a new TAP for the Upgrade Models.
- 4 **TAP Officer Safety Plan (OSP).** The Officer Safety Plan includes the benefits of the Evidence.com Unlimited License (which includes unlimited data storage for Axon camera and Evidence Mobile generated data in the Evidence.com Services and TAP for the Axon Camera), TAP for Evidence.com Dock, one TASER brand CEW with a 4-year Warranty, one CEW battery, and one CEW holster. At any time during the OSP term the Agency may choose to receive the CEW, battery and holster by providing a \$0 purchase order. At the time elected to receive the CEW, the Agency may choose from any current CEW model offered. The OSP plan must be purchased for a period of 5 years. If the OSP is terminated

before the end of the term and the Agency did not receive a CEW, battery or holster, then we will have no obligation to reimburse for those items not received. If OSP is terminated before the end of the term and the Agency received a CEW, battery and/or holster then (a) the Agency will be invoiced for the remainder of the MSRP for the Products received and not already paid as part of the OSP before the termination date; or (b) only in the case of termination for non-appropriations, return the CEW, battery and holster to TASER within 30 days of the date of termination.

- 5** **TAP Upgrade Models.** Upgrade Models are to be provided as follows during and/or after the TAP Term: (i) an upgrade will provided in year 3 if the Agency purchased 3 years of Evidence.com services with Ultimate Licenses or Unlimited Licenses and all TAP payments are made; or (ii) 2.5 years after the Effective Date and once again 5 years after the Effective Date if the Agency purchased 5 years of Evidence.com services with an Ultimate License or Unlimited Licenses or OSP and made all TAP payments.

For CEW Upgrade Models TASER will upgrade Products, free of charge, with a new unit that is the same product or a like product, in the same weapon class ("Upgrade Model"). For example: (a) if the Product is a single bay CEW, then Agency may choose any single bay CEW model as the Agency's Upgrade Model; (b) if the Product is a multibay CEW, then Agency may choose any multi-bay CEW model as the Upgrade Model; and (c) if the Covered Product is a TASER CAM recorder, then the Agency may choose any TASER CAM model as an Upgrade Model. To continue TAP coverage for the Upgrade Model, the Agency must elect TAP and will be invoiced for the first year payment at the time the upgrade is processed. The TAP payment amount will be the rate then in effect for TAP. Agency may elect to receive the Upgrade Model anytime in the 5th year of the TAP term as long as the final payment has been made.

Any products replaced within the six months prior to the scheduled upgrade will be deemed the Upgrade Model. Thirty days after the Upgrade Models are received, the Agency must return the products to TASER or TASER will deactivate the serial numbers for the products received unless the Agency purchases additional Evidence.com licenses for the Axon camera products the Agency is keeping. The Agency may buy a new TAP for any Upgraded Model.

#### **5.1. TAP Axon Camera Upgrade Models.**

- 5.1.1.** If the Agency purchased TAP for Axon Cameras as a stand-alone service, then TASER will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera that is the same product or a like product, at TASER's sole option. TASER makes no guarantee that the Upgrade Model will utilize the same accessories or Dock. If the Agency would like to change product models for the Upgrade Model, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Upgrade Model and the MSRP for the model that will be acquired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered Upgrade Model.
- 5.1.2.** If the Agency purchased Unlimited License or OSP, then TASER will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera of the Agency's choice.

#### **5.2. TAP Dock Upgrade Models.** TASER will upgrade the Dock free of charge, with a new Dock

with the same number of bays that is the same product or a like product, at TASER's sole option. If the Agency would like to change product models for the Upgrade Model or add additional bays, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Upgrade Model and the MSRP for the model desired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered Upgrade Model.

- 6**     **TAP Termination.** If an invoice for TAP is more than 30 days past due or the Agency defaults on its payments for the Evidence.com services then TASER may terminate TAP and all outstanding Product related TAPs. TASER will provide notification that TAP coverage is terminated. Once TAP coverage is terminated for any reason, then:
- 6.1.**     TAP coverage will terminate as of the date of termination and no refunds will be given.
  - 6.2.**     TASER will not and has no obligation to provide the free Upgrade Models.
  - 6.3.**     The Agency will be invoiced for and are obligated to pay to TASER the MSRP then in effect for all Spare Products provided under TAP. If the Spare Products are returned within 30 days of the Spare Product invoice date, credit will be issued and applied against the Spare Product invoice.
  - 6.4.**     The Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TAP.
  - 6.5.**     If the Agency received Axon Products free of charge and TAP is terminated before the end of the term then (a) the Agency will be invoiced for the remainder of the MSRP for the Products received and not already paid as part of the TAP before the termination date; or (b) only in the case of termination for non-appropriations, return the Products to TASER within 30 days of the date of termination.
  - 6.6.**     If the Agency made two or more annual TAP payments, then the Agency will: retain the extended warranty coverage; receive a 50% credit for the difference between TAP payments paid prior to termination and the extended warranty price then in effect for each CEW covered under TAP; and have until the date listed on the termination notification to apply that credit toward the purchase of any TASER products. The credit amount available and expiration date of the credit will be provided as part of the termination notification.
  - 6.7.**     If the Agency made only one annual TAP payment, then the Agency may elect to pay the difference between the price for the extended warranty then in effect and the payments made under TAP to continue extended warranty coverage. This election must be made when written notice of cancellation is submitted by the Agency. If the Agency does not elect to continue with an extended warranty, then warranty coverage will terminate as of the date of cancellation/termination.
  - 6.8.**     If the Agency received a credit towards the first TAP payment as part of a trade-in promotion,

then upon cancellation/termination the Agency will be assessed a \$100 cancellation fee for each covered Product.