



## Evidence.com Master Service Agreement

TASER International, Inc. (TASER, us, or we) and Fresno County (Agency, your, or you) agree to accept and be bound by the following terms and conditions effective August 9, 2016 (Effective Date).

**1 Access Rights.** Upon the purchase or granting of a subscription from TASER and your opening of an Evidence.com account you will have access and use of the Evidence.com Services for the storage and management of and Your Content during the subscription term ("Term"). This is not a data sharing agreement. We do not continuously audit, inspect, or monitor individual agency content or Your Content. You are not intending to waive or diminish any privacy interests by your use of the Evidence.com Services. The Evidence.com Services and data storage are subject to usage limits, including, for example, the quantities specified in quotes, order forms and purchase orders. Unless otherwise specified, (a) a quantity in a quote, order form or purchase order refers to end users, and the Evidence.com Service may not be accessed by more than that number of end users, and (b) an end user identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Evidence.com Service. You and each of your end users agree to adhere to this Agreement and all laws, rules, regulations, and policies applicable to your use of the Evidence.com Services. If you become aware of any violation of this Agreement by an end user, you will immediately terminate that end user's access to Your Content and the Evidence.com Services.

**2 You Own Your Content.** You control and own all right, title, and interest in and to Your Content and we obtain no rights to Your Content. You are solely responsible for the uploading, sharing, withdrawal, management and deletion of Your Content. You consent to our limited access to Your Content solely for the purpose of providing and supporting the Evidence.com Services to you and your end users. You represent that you own Your Content; and that none of Your Content or your end users' use of Your Content or the Evidence.com Services will violate this Agreement or applicable laws.

**3 Evidence.com Data Security.**

**3.1 Generally.** We will implement commercially reasonable and appropriate measures designed to secure Your Content against accidental or unlawful loss, access or disclosure. We 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 you upload, security education, risk management, and data protection. You are responsible for maintaining the security of your end user names and passwords and taking steps to maintain appropriate security and access by your end users to Your Content. Log-in credentials are for your internal use only and you may not sell, transfer, or sublicense them to any other entity or person. You agree to be responsible for all activities undertaken by you, your employees, your contractors or agents, and your end users which result in unauthorized access to your account or Your 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 you at any time. You will contact us immediately if you believe an unauthorized third party may be using your account or Your Content or if your account information is lost or stolen.

**3.2 FBI CJIS Security Addendum.** For customers based in the United States, we agree 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. Upon request we will provide a signed CJIS Security Addendum Certification for each authorized employee to you or, if it exists, a statewide repository for such documentation.

**4 Our Support.** We will make available to you updates as released by us to the Evidence.com Services. Updates may be provided electronically via the Internet. It is your responsibility to establish and maintain adequate access to the Internet in order to receive the updates. We 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). You are responsible for maintaining the computer equipment and Internet connections necessary for your use of the Evidence.com Services.

**5 Data Privacy.** We will not disclose Your Content or any information about you except as compelled by a court or administrative body or required by any law or regulation. We will give you notice if any disclosure request is received for Your Content so you may file an objection with the court or administrative body. You agree to allow us access to certain information from you in order to: (a) perform troubleshooting services for your account at your request or as part of our regular diagnostic screenings; (b) enforce our agreements or policies governing your use of Evidence.com Services; or (c) perform analytic and diagnostic evaluations of the systems.

**6 Data Storage.** We will determine the locations of the data centers in which Your Content will be stored and accessible by your end users. For United States customers, we will ensure that all of Your Content stored in the Evidence.com Services remains within the United States including any backup data, replication sites, and disaster recovery sites. You consent to the transfer of Your Content to third parties for the purpose of storage of Your Content. Third party subcontractors responsible for storage of Your Content are contracted by us for data storage services. Ownership of Your Content remains with you.

**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; except in the case of the Public Agency Optional Licenses described in Section 8.1. Additional end user accounts will terminate on the same date as the pre-existing subscriptions. You are responsible for paying all subscription fees and applicable taxes and duties for Evidence.com Services. Unless otherwise specified by us, all fees for Evidence.com Services are due and payable net 30 days for approved credit. Payment obligations are non-cancelable and fees paid are non-refundable and all amounts payable will be made without setoff, deduction, or withholding. We reserve the right to charge additional fees for you exceeding your purchased storage amounts or for TASER's assistance in the downloading or exporting of Your Content. We may charge you interest at the rate of 1.5% per



month (or the highest rate permitted by law, if less) on all late payments. If a delinquent account is sent to collections, you are responsible for all collection and attorneys' fees.

**8 Optional Subscription License Tiers.** This Section 8 applies to the optional subscription licenses listed below. You may elect to be billed upfront or annually for these optional subscription licenses, and that election will be reflected on your quote. The optional subscription license prices do not include the purchase price of any hardware or data storage of other data files generated from non-Axon cameras or the Evidence Mobile App. If the optional subscription license is terminated early, no refunds or credits will be given. This Section 8 does not apply if you do not purchase any of the Optional Subscription License Tiers.

**8.1 Public Agency Optional Licenses.** Each of the optional subscription licenses in this Section 8.1 must be purchased at the point of sale of the hardware. Any hardware provided under the optional subscription licenses is subject to TASER's current *Hardware Warranty, Limitations and Release for Law Enforcement CEW Products and On-Officer Cameras* available at <https://www.taser.com/legal>.

**8.1.1 Evidence.com Ultimate License.** Each Evidence.com Ultimate License includes the benefits of the Evidence.com Pro License, 20 GB of storage, and TAP for the Axon camera. TASER's current Sales Terms and Conditions for the Axon Flex® and Axon Body Cameras TASER Assurance Plan (U.S. Only) (TAP) are available at <https://www.taser.com/legal>.

**8.1.2 Evidence.com Unlimited License.** Each Evidence.com Unlimited License includes the benefits of the Evidence.com Ultimate License and unlimited data storage for Axon camera and Evidence Mobile generated data in the Evidence.com Services. You must implement a data retention schedule in the Evidence.com Services for the management of Your Content stored in the Evidence.com Services to qualify for the Evidence.com Unlimited License. We reserve the right, in our sole discretion, to place any data stored in your Evidence.com accounts and not viewed or accessed for 6 months into archival storage. Data stored in archival storage will not have immediate availability and may take up to 24 hours to access. The Evidence.com Unlimited License must be purchased for a 3- or 5-year term.

**8.1.3 Officer Safety Plan.** The Officer Safety Plan includes all the benefits of the Evidence.com Unlimited License, TAP for the Evidence.com Dock, one TASER brand conducted electrical weapon (CEW) with a 4-year extended warranty, one CEW battery, and one CEW holster of your choice. At any time during the Officer Safety Plan term you may choose to receive the CEW, battery and holster by providing a \$0 purchase order (orders may take 4-6 weeks to process). At the time you elect to receive the CEW, you may choose from any CEW model currently offered by us. The Officer Safety Plan must be purchased for a 5-year term. If the Officer Safety Plan is terminated before the end of the term and you did not receive your CEW, battery and holster then we will not and have no obligation to provide these items or a credit under the Officer Safety Plan. If the Officer Safety Plan is terminated before the end of the term and after you receive your CEW, battery and holster then then: (a) you will be invoiced for the remainder of the MSRP for the CEW, battery, and holster not already paid as part of the Officer Safety Plan before the termination date; or (b) only in the case of termination for non-appropriations, return the CEW, battery and holster to us within 30 days of the date of termination.

**8.2 Prosecutor Licenses.** Each Prosecutor Standard License and Prosecutor Professional License includes unlimited data storage for Axon camera and Evidence Mobile generated data shared through the Evidence.com Services. You must implement a data retention schedule for the storage of relevant evidence and case related data in the Evidence.com Services for the management of Your Content stored in the Evidence.com Services to qualify for the Evidence.com Prosecutor Standard License or Prosecutor Professional License. We reserve the right, in our sole discretion, to place any data stored in your Evidence.com accounts and not viewed or accessed for 6 months into archival storage. Data stored in archival storage will not have immediate availability and may take up to 24 hours to access.

**9 Suspension of Evidence.com Services.** We may suspend your or any end user's right to access or use any portion or all of the Evidence.com Services immediately upon notice to you if we determine:

**9.1** Your 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 us, our affiliates, or any third party to liability, or (iv) may be fraudulent;

**9.2** You are, or any end user is, in breach of this Agreement, including if you are delinquent on your payment obligations for more than 30 days; or

**9.3** You have become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding.

**9.4** If we suspend your right to access or use any portion or all of the Evidence.com Services, you remain responsible for all fees and charges incurred through the date of suspension without any credits for any period of suspension. We will not delete any of Your Content on Evidence.com as a result of your suspension, except as specified elsewhere in this Agreement.

## **10 Term.**

**10.1 Subscription Term.** The start date of the Term of this Agreement will be determined based upon the shipment date of any hardware ordered as authorized by you in a signed quote or purchase order and will remain in effect for the subscription Term agreed to in the quote or purchase agreement together with any renewal Terms until terminated as provided in this Agreement. If the hardware is shipped in the first half of a month, then the Term starts on the 1<sup>st</sup> of the following month. If the hardware is shipped in the last half of a month, then the Term begins on the 15<sup>th</sup> of the following month. If no hardware is purchased, then the Term will begin on the first of the month following the invoice date of the initial invoice containing the licenses. If the quote or purchase agreement contains multiple hardware shipments, the start date of the agreement is based upon the first hardware shipment, and the services related to the remaining shipments will be prorated and co-terminated with the initial start date. This Agreement automatically renews for additional successive Terms of one (1) year each after the



completion of your initial Term at the list prices then in effect, unless you give us written notice of cancellation sixty (60) days prior to the end of a Term.

**10.2 Free Trial Term.** If you signed up for a free trial, you are granted a limited non-exclusive license to use the Evidence.com Services for the term of the free trial period (**Trial Term**). Upon the expiration of the Trial Term you must purchase the Evidence.com Services to continue to use the Evidence.com Services to access Your Content.

**10.3 Free Evidence.com Lite Account.** If you signed up for a free Evidence.com Lite account, you are granted a limited non-exclusive license to use the Evidence.com Lite Services. Your use of the Evidence.com Lite Services is not limited to a specific term and you may cancel your Evidence.com Lite account and download Your Content at any time. Evidence.com Lite allows users to manage their conducted electrical weapon (CEW) firing logs and TASER CAM data.

**11 Termination.**

**11.1 Termination for Cause.**

**11.1.1 By Either Party.** Either party may terminate this Agreement 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 you terminate this Agreement under this Section and we failed to cure the material breach or default, we will issue you a refund of any prepaid amounts on a prorated basis.

**11.1.2 By Agency.** You are obligated to pay the fees under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during your 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 you. You agree to deliver notice of termination under this Section (11.1.2) at least 90 days prior to the end of the then current fiscal year.

**11.2 Effect of Termination.** Upon any termination of this Agreement: (a) all your rights under this Agreement immediately terminate; (b) you remain responsible for all fees and charges you have incurred through the date of termination; and (c) Sections 2, 5–7, 12, 13 (except the license granted to you in Section 13), 14, and 16–20 will continue to apply in accordance with their terms.

**12 Return of Your Content.**

**12.1 During the Term.** You can log into the Evidence.com Services to retrieve and manually download Your Content at any time during the Term.

**12.2 After Termination.** We will not delete any of Your Content as a result of a termination during the 90 days following termination. During this 90-day period you may retrieve Your Content only if you have paid all amounts due (there will be no application functionality of the Evidence.com Services during this 90-day period other than the ability for you to retrieve Your Content). You will not incur any additional fees if you download Your Content from the Evidence.com Services during this 90-day period. We have no obligation to maintain or provide any of Your Content after the 90-day period and will thereafter, unless legally prohibited, delete all of Your Content stored in the Evidence.com Services. Upon request, we will provide written proof that all of Your Content has been successfully deleted and fully removed from the Evidence.com Services.

**12.3 Post-Termination Assistance.** We will provide you with the same post-termination data retrieval assistance that we generally make available to all customers. Requests that we provide additional assistance to you in downloading or transferring Your Content will result in additional fees from us and we will not warranty or guarantee data integrity or readability in the external system.

**13 IP Rights.** We or our licensors own and reserve all right, title, and interest in and to the Evidence.com Services and related software. Subject to the terms of this Agreement, we grant you a limited, revocable, non-exclusive, non-sublicensable, non-transferrable license to access and use the Evidence.com Services solely in accordance with this Agreement during the Term. We own all right, title, and interest in and to the Evidence.com Services, including without limitation all Intellectual Property Rights. If you or your end users provide any suggestions to us for enhancements or improvements, we will own all right, title, and interest in and to the suggestions and have the right to use the suggestions without restriction, even if you or your end users have designated the suggestions as confidential. You irrevocably assign to us all right, title, and interest in and to the suggestions and agree to provide us any assistance we may require to document, perfect, and maintain our rights in the suggestions.

**14 License Restrictions.** Neither you nor any of your end users may use the Evidence.com Services in any manner or for any purpose other than as expressly permitted by this Agreement. Neither you nor any of your 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 to you in this Agreement are conditional on your continued compliance this Agreement, and will immediately and automatically terminate if you do not comply with any term or condition of this Agreement. During and after the Term, you will not assert, nor will you authorize, assist, or encourage any third party to assert, against us or any of our affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding any Evidence.com Services you have used. You may only use our trademarks in accordance with the TASER Trademark Use Guidelines (located at [www.TASER.com](http://www.TASER.com)).

**15 Third-Party Products and Services.** No purchase of third-party products or services is required to use the Evidence.com Services other than a computer and Internet access. Any acquisition by you of third-party products or services and any exchange of data or Your Content between you and any third-party provider, is solely between you and the applicable third-party provider; including any fees necessary to obtain or use the third-party products or services. We are not responsible for examining or evaluating the content or accuracy of third-party products or services and we do not warrant and will not have any liability or responsibility for any third-party products or services, or for any other materials, products, or services of third parties. If you install or enable Third-Party Applications for use with Evidence.com Services, you acknowledge that we may need to allow providers of those Third-Party Applications to access Your Content as required for the interoperation of the Third-Party Applications with the Evidence.com Services. We are not responsible for any disclosure, modification or deletion of Your Content resulting from any access by Third-Party Application providers.

**16 Representations by You.** You represent and warrant to us that: (a) you have been duly authorized by the laws of the applicable jurisdiction, and by a resolution of your governing body, if legally required, to execute and deliver this Agreement and to carry out your obligations under this Agreement; (b) all legal requirements have been met, and procedures have been followed, including public bidding, if legally required, in order to ensure the enforceability of this Agreement; (c) if you are a government agency, that the Evidence.com Services will be used by you only for essential governmental or proprietary functions consistent with the scope of your authority and will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use; (d) if you are a government agency, you have funds available to pay until the end of its current appropriation period, and you intend to request funds to make payments in each appropriation period, from now until the end of the Term; and (e) you are responsible for (i) your or any of your end users' use of the Evidence.com Services (including any activities under your account and use by your employees and agents), (ii) breach of this Agreement or violation of applicable law by you or any of your end users, (iii) Your Content or the combination of Your Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third-party rights by Your Content or by the use of Your Content, (iv) a dispute between you and any of your end users, and (v) a dispute between you and any third-party over your collection or use of Your Content. You agree to maintain insurance coverage up to the amount allowed by State and local laws and regulations that would cover any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or related to any third-party claim in this Section 16.

**17 Insurance.** Without limiting the Agency's right to obtain indemnification from TASER or any third parties, TASER, at its sole expense, shall maintain in full force and effect, the following insurance policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the Agreement:

**A. Commercial General Liability**

Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. Agency may require specific coverages including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability or any other liability insurance deemed necessary because of the nature of this contract.

**B. Automobile Liability**

Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used in connection with this Agreement.

**C. Professional Liability**

If TASER employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

**D. Worker's Compensation**

A policy of Worker's Compensation insurance as may be required by the California Labor Code.

TASER shall obtain endorsements to the Commercial General Liability insurance naming the County of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are





## Evidence.com Master Service Agreement

concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by Agency, its officers, agents and employees shall be excess only and not contributing with insurance provided under TASER policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to Agency.

Within Thirty (30) days from the date TASER signs and executes this Agreement, TASER shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno, (Name and Address of the official who will administer this contract), stating that such insurance coverage have been obtained and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that such Commercial General Liability insurance names the County of Fresno, its officers, agents and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by Agency, its officers, agents and employees, shall be excess only and not contributing with insurance provided under TASER's policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to Agency.

In the event TASER fails to keep in effect at all times insurance coverage as herein provided, the Agency may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

18 All policies shall be issued by admitted insurers licensed to do business in the State of California, and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better

**Our Warranty.** We warrant that the Evidence.com Services (a) will perform materially in accordance with the Documentation, (b) will be performed in a timely and professional manner by qualified persons with the technical skills, training, and experience to perform the Evidence.com Services, and (c) will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. All warranties or guarantees given or made by us with respect to the Evidence.com Services are solely for the benefit of you and your end users and are not transferable and are null and void if you breach any term or condition of this Agreement. 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. 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 \$1,000,000. In no event will either Party be liable for any 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.

YOU ARE SOLELY RESPONSIBLE FOR ENSURING THAT YOUR USE OF THE EVIDENCE.COM SERVICES IS IN ACCORDANCE WITH APPLICABLE LAW. You are solely responsible for: (a) all data before it is uploaded to the Evidence.com Services; (b) configuring and setting up any hardware or networks that you connect to the Evidence.com Services; (c) your networks and how they may interact with the hardware, software, or Evidence.com Services; and (d) any security settings you establish to interact with or on the Evidence.com Services. We disclaim any warranties or responsibility for data corruption or errors before the data is uploaded to the Evidence.com Services.

19 **Indemnification by Us.** We will defend, indemnify, and hold you harmless, and each of your respective employees, officers, directors, and representatives from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any: (a) acts or omissions of us or our subcontractors or anyone directly or indirectly employed by any of them, save and except for damage or injury caused solely by the negligence of you or your agents, officers, or employees; and (b) third-party claim alleging that the use of the Evidence.com Services as permitted under this Agreement infringes or misappropriates the intellectual property rights of a third party. You must provide us with prompt written notice of each such claim, tender to us the defense or settlement of each such claim at our expense, and cooperate fully with us in the defense or settlement of each such claim. If we receive notice of an alleged infringement, or if your use of the Evidence.com Services will be prevented by permanent injunction, we may, at our sole option and expense, procure for you the right to continue using the Evidence.com Services as provided in this Agreement, modify the Evidence.com Services so that it no longer infringes, replace the Evidence.com Services with other services of equal or superior functional capability, refund to you all amounts paid by you to us under this Agreement for the Evidence.com Services in the 1-year period immediately preceding the first event giving rise to the claim of infringement, or in the case of trademark infringement, instruct you to use an alternative trademark. We have no liability to you 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 you or any third party not approved by us; (b) use of the Evidence.com Services in connection or in combination with equipment, devices, or services not approved or recommended by us; (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 us as part of or in connection with the Evidence.com Services. Nothing in this Section will affect any warranties in favor of you that are otherwise provided in or arise out of this Agreement.

## **20 Miscellaneous.**

### **20.1 Definitions.**

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

**20.1.2 "Your Content"** means software, data, text, audio, video, images or other content you or any of your 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 your account or otherwise transfer, process, use or store in connection with your account.

**20.1.3 "Documentation"** means the user guides, quick reference guides, and other technical and operations manuals and specifications for the Evidence.com Services provided by us, as that documentation may be updated by us from time to time.

**20.1.4 "Confidential Information"** means all nonpublic information disclosed by us, our affiliates, business partners or our 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. Confidential Information includes: (a) nonpublic information relating to our or our affiliates or business partners' technology, customers, business plans, promotional and marketing activities, finances and other business affairs; (b) third-party information that we are obligated to keep confidential; and (c) the nature, content and existence of any discussions or negotiations between you and us or our affiliates that is not subject to your public record laws. Confidential Information does not include any information that: (i) is or becomes publicly available without breach of this Agreement; (ii) can be shown by documentation to have been known to you at the time of your receipt from us; (iii) is received from a third party who did not acquire or disclose the same by a wrongful or tortious act; or (iv) can be shown by documentation to have been independently developed by you without reference to the Confidential Information.

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

**20.2 Confidentiality.** Any party may use the other party's Confidential Information only as permitted under this Agreement. Except as required by applicable law or judicial order, you will not disclose our Confidential Information during the Term or at any time during the 5-year period following the end of the Term. You will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of our Confidential Information.

**20.3 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.

**20.4 Independent Contractors.** The parties are independent contractors, and neither party, nor any of their respective affiliates, is an agent of the other for any purpose or 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.

**20.5 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.

**20.6 Non-discrimination and Equal Opportunity.** During the performance of this Agreement, we agree that neither we nor our employees will discriminate against any person, whether employed by us or otherwise, on the 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 us or placed by or on behalf of us, we will state all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, national origin, handicap, marital status, or political affiliation or belief.

**20.7 U.S. Government Rights.** The Evidence.com Services are provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" with the same rights and restrictions generally applicable to the Evidence.com Services. If you are 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, you will immediately discontinue your 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.

**20.8 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, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the U.S. Office of Foreign Assets Control. You are solely responsible for compliance related to the manner in which you choose to use the Evidence.com Services, including your transfer and processing of Your Content, the provision of Your Content to end users, and the region in which any of the foregoing occur.





## Evidence.com Master Service Agreement

**20.9 Assignment.** Neither party may assign or otherwise transfer this Agreement or any of its rights and obligations under this Agreement without the prior written approval of the other party; except that we may assign or otherwise transfer this Agreement or any of our rights or obligations under this Agreement without your consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of our assets, (c) to as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the parties and their respective successors and assigns.

**20.10 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. All waivers by a party must be in writing and sent in accordance with this Agreement to be effective.

**20.11 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. Any invalid or unenforceable portions will be interpreted to effect and intent of the original portion. If such construction is not possible, the invalid or unenforceable portion will be severed from this Agreement but the rest of the Agreement will remain in full force and effect.

**20.12 Governing Law; Venue.** The laws of the state where you are 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.

**20.13 Litigation Costs.** In the event of any legal action to enforce the provisions of this Agreement, the successful party in enforcing any provision of this Agreement will be awarded that party's reasonable attorneys' fees and taxable costs.

**20.14 Notices.** All communications and notices to be made or given pursuant to this Agreement must be in the English language.

**20.14.1 To You.** We may provide any notice to you under this Agreement by: (i) posting a notice on your specific agency Evidence.com site; or (ii) sending a message to the email address(es) then associated with your account. Notices we provide by posting on your Evidence.com site will be effective upon posting and notices we provide by email will be effective when we send the email. You will be deemed to have received any email sent to the email address then associated with your account when we send the email, whether or not you actually receive the email.

**20.14.2 To Us.** To give us notice under this Agreement, you must contact us: (i) by email transmission to [evidencecontracts@taser.com](mailto:evidencecontracts@taser.com); or (ii) by personal delivery, overnight courier or registered or certified mail to TASER International, Inc., ATTN: Evidence Contracts, 17800 N. 85th Street, Scottsdale, Arizona 85255. We may update the email or address for notices to us by posting a notice on your Evidence.com site. Notices provided by personal delivery will be effective immediately. Notices provided by email transmission or overnight courier will be effective one business day after they are sent. Notices provided registered or certified mail will be effective 3 business days after they are sent.

**20.15 Entire Agreement.** This Agreement, including the Policies and the quote provided by TASER, is the entire agreement between you and TASER regarding the Evidence.com Services. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between you and TASER, whether written or verbal, regarding the subject matter of this Agreement. You agree that your purchases are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by us regarding future functionality or features of the Evidence.com Services. We will not be bound by, and specifically object to, any term, condition or other provision which is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) and which is submitted by you in any order, receipt, acceptance, confirmation, correspondence or other document. 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 we provide a translation of the English language version of this Agreement, the English language version of the Agreement will control if there is any conflict.

**20.16 Voluntary Agreement.** This Agreement was negotiated and executed voluntarily and is not the result of duress, fraud, undue influence or any threat of any kind. All parties had the opportunity to read and consider this Agreement, to consult with counsel, and fully understand the Agreement.

**20.17 Time is of the Essence.** Time is of the essence in connection with all matters and obligations pertaining to this Agreement.

**20.18 Counterparts.** If this Agreement form requires the signatures of the parties, then this Agreement may be executed in multiple counterparts, each of which is considered an original. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of the document as if the original had been received.

TASER International, Inc.

By: 

Name: Josh Isner

Title: EvL Global Sales

Signature Date: 7/6/16

Agency Name: Fresno County District Attorney

By: 


Name: Ernest Buddy Mendes

Title: Chairman, Board of Supervisors

Signature Date: 8-11-2016

ATTEST:

BERNICE E. SEIDEL, Clerk  
Board of Supervisors

By:   
Deputy



## Evidence.com Master Service Agreement

Address:  
17800 N. 85<sup>th</sup> Street  
Scottsdale, AZ 85255  
Attn: General Counsel  
Email: legal@taser.com

Address: 2220 Tulare Street, Suite 1000  
Fresno, CA 93721

[Document revised 8-5-2015]

Evidence.com and 'Protect Life' are trademarks of TASER International, Inc., and TASER, Axon, Axon Flex, and © are trademarks of TASER International, Inc., registered in the US and other countries. For more information, see [www.TASER.com/legal](http://www.TASER.com/legal). All rights reserved. © 2015 TASER International, Inc.



This approval signature page relates to an Agreement with TASER International Inc., which Agreement is made by COUNTY OF FRESNO, a Political Subdivision of the State of California, on behalf of which the FRESNO COUNTY DISTRICT ATTORNEY-PUBLIC ADMINISTRATOR'S OFFICE is acting. The initial Agreement term is from July 1, 2016, to June 30, 2021.

EFFECTIVE as of the date set forth in the referenced Agreement.


APPROVED AS TO LEGAL FORM:  
DANIEL C. CEDERBORG, COUNTY  
COUNSEL

By:   
Deputy

REVIEWED AND RECOMMENDED  
FOR APPROVAL: LISA A.  
SMITTCAMP, DISTRICT ATTORNEY

By:   
Deputy

APPROVED AS TO ACCOUNTING  
FORM: VICKI CROW, C.P.A.  
AUDITOR-CONTROLLER/TREASURER-  
TAX COLLECTOR

By:   
Deputy

Organization	2860
Fund	0001
Subclass	10000
Account	7295



# TASER International

Protect Life. Protect Truth.

17800 N 85th St.  
Scottsdale, Arizona 85255  
United States  
Phone: (800) 978-2737  
Fax:

Jeff Dupras  
(559) 600-4440  
jdupras@co.fresno.ca.us



## Quotation

Quote: Q-69948-5

Date: 7/1/2016 10:09 AM

Quote Expiration: 8/31/2016

Contract Start Date\*: 9/1/2016

Contract Term: 5 years

AX Account Number:

483826

Bill To:  
Fresno County District Attorney  
10th Floor, 2220 Tulare Street, #1000  
Fresno, CA 93721  
US

Ship To:  
Jeff Dupras  
Fresno County District Attorney  
10th Floor, 2220 Tulare Street, #1000  
Fresno, CA 93721  
US

SALESPERSON	PHONE	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Brent Berkley		bberkley@taser.com	Fedex - Ground	Net 30

\*Note this will vary based on the shipment date of the product.

Year 1 Due Net 30

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
300	88111	PROSECUTOR STANDARD EVIDENCE.COM LICENSE: YEAR 1 PAYMENT	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Year 1 Due Net 30 Total Before Discounts:						USD 0.00
Year 1 Due Net 30 Net Amount Due:						USD 0.00

Year 2 Due July 1, 2017

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
300	88211	PROSECUTOR STANDARD EVIDENCE.COM LICENSE: YEAR 2 PAYMENT	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Year 2 Due July 1, 2017 Total Before Discounts:						USD 0.00
Year 2 Due July 1, 2017 Net Amount Due:						USD 0.00



## Year 3 Due July 1, 2018

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
300	88311	PROSECUTOR STANDARD EVIDENCE.COM LICENSE: YEAR 3 PAYMENT	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Year 3 Due July 1, 2018 Total Before Discounts:						USD 0.00
Year 3 Due July 1, 2018 Net Amount Due:						USD 0.00

## Year 4 Due July 1, 2019

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
300	88411	PROSECUTOR STANDARD EVIDENCE.COM LICENSE: YEAR 4 PAYMENT	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Year 4 Due July 1, 2019 Total Before Discounts:						USD 0.00
Year 4 Due July 1, 2019 Net Amount Due:						USD 0.00

## Year 5 Due July 1, 2020

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL BEFORE DISCOUNT	DISCOUNT (\$)	NET TOTAL
300	88511	PROSECUTOR STANDARD EVIDENCE.COM LICENSE: YEAR 5 PAYMENT	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Year 5 Due July 1, 2020 Total Before Discounts:						USD 0.00
Year 5 Due July 1, 2020 Net Amount Due:						USD 0.00

Grand Total USD 0.00




Complimentary Evidence.com Tier Upgrade Through September 2016

This quote contains a purchase of either the Basic or Standard Evidence.com license. You will temporarily receive the features available with the Professional license for the Basic and Standard licenses purchased until September 2016. This is a free upgrade to your account so you can enjoy all the benefits of our most feature rich license tier. In September 2016 you will be prompted to select which users you would like to assign to each tier. This will have no impact on uploaded data.

**TASER International, Inc.'s Sales Terms and Conditions  
for Direct Sales to End User Purchasers**

By signing this Quote, you are entering into a contract and you certify that you have read and agree to the provisions set forth in this Quote and TASER's Master Services and Purchasing Agreement posted at [www.taser.com/legal](http://www.taser.com/legal). You represent that you are lawfully able to enter into contracts and if you are entering into this agreement for an entity, such as the company, municipality, or government agency you work for, you represent to TASER that you have legal authority to bind that entity. If you do not have this authority, do not sign this Quote.


Signature:  Date: 8-11-2016  
Name (Print): Ernest Buddy Mendes Title: Chairman, Board of Supervisors  
PO# (if needed): \_\_\_\_\_

ATTEST:

Quote: Q-69948-5

BERNICE E. SEIDEL, Clerk  
Board of Supervisors

Please sign and email to Brent Berkley at [bberkley@taser.com](mailto:bberkley@taser.com) or fax to

By   
Deputy

THANK YOU FOR YOUR BUSINESS!

'Protect Life' and © are trademarks of TASER International, Inc., and TASER® is a registered trademark of TASER International, Inc., registered in the U.S.  
© 2013 TASER International, Inc. All rights reserved.