



MASTER SERVICES AND PURCHASING AGREEMENT

between

TASER INTERNATIONAL, INC.

and

—the City of Midland, Texas

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 85th Street, Scottsdale, Arizona, 85255, and –the City of Midland, Texas , (**City, Party** or collectively **Parties**) a home-rule municipal corporation, is entered into as of November 23, 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-83056 (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 City of TASER Products and all subsequent quotes accepted by City 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 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. Subscription Services will automatically renew for additional successive Terms of one (1) year after completion of the initial Term at the list price then in effect, unless the City gives TASER written notice of termination within sixty (60) days prior to the end of a one (1) year period.

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 City’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 City or by third parties outside of TASER’s reasonable control.

“Services” means all services provided by TASER pursuant to this Agreement.

“City Content” means software, data, text, audio, video, images or other City content or any of the City’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 City account or otherwise transfer, process, use or store in connection with the City 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. If a delinquent account is sent to collections, the City is responsible for all collection and attorneys’ fees.
- 4** **Taxes.** Unless TASER is provided with a valid and correct tax exemption certificate applicable to the purchase and ship-to location, the City 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 City upon delivery to the common carrier by TASER. The City is responsible for all freight charges. Any loss or damage that occurs during shipment is the City’s responsibility. Shipping dates are estimates only. The City 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 or 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 City'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 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 City 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 City Indemnitees (the City'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 City 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 City 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 City 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 City 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 City 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 City 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 City that are otherwise provided in or arise out of this Agreement.

14 **City Responsibilities.** The City is responsible for (i) use of TASER Products (including any activities under the City Evidence.com account and use by City employees and agents), (ii) breach of this Agreement or violation of applicable law by the City or any of the City's end users, (iii) City Content or the combination of City Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third party rights by City Content or by the use of City Content, (iv) a

dispute between the City and any third party over City use of TASER products or the collection or use of City Content, (v) any hardware or networks that the City connects to the Evidence.com Services, and (vi) any security settings the City 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 City 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 By City. The City 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 City. The City 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 Effect of Termination. Upon any termination of this Agreement: (a) all City rights under this Agreement immediately terminate; (b) the City remains responsible for all fees and charges incurred through the date of termination; and (c) Payment Terms, Warranty, Product Warnings, Indemnification, and City Responsibilities Sections, as well as the Evidence.com Terms of Use Appendix Sections on City Owns City Content, Data Storage, Fees and Payment, Software Services Warranty, IP Rights and License Restrictions will continue to apply in accordance with their terms.

15.4 After Termination. TASER will not delete any City Content as a result of a termination during a period of 90 days following termination. During this 90-day period the City may retrieve City 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 City Content). The City will not incur any additional fees if City Content is downloaded from Evidence.com during this 90-day period. TASER has no obligation to maintain or provide any City Content after this 90-day period and will thereafter, unless legally prohibited, delete all of City Content stored in the Evidence.com Services. Upon request, TASER will provide written proof that all City Content has been successfully deleted and fully removed from the Evidence.com Services.

15.5 Post-Termination Assistance. TASER will provide City 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 City Content will result in additional fees and TASER will not warrant or guarantee data integrity or readability in the external system.

16 General.

16.1 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. Notwithstanding any other provision herein, this Agreement in no way restricts the obligation of the City to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The Parties hereby agree that the City retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

16.2 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.

16.3 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.

16.4 Proprietary Information. The City 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 City will not directly or indirectly cause any proprietary rights to be violated.

16.5 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, City, fiduciary, or employment relationship between the Parties.

16.6 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.

16.7 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 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.

16.8 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 City 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 City 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.

16.9 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.

16.10 Assignment. Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. TASER may assign or otherwise transfer this Agreement or any of our rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of our assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.

16.11 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.

16.12 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.

16.13 [Intentionally Omitted]

16.14 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 City'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.	CITY:
ATTN: Contracts	ATTN: Purchasing
17800 N. 85th Street	300 N. Loraine St.
Scottsdale, Arizona 85255	Midland, Texas 79701
contracts@taser.com	

16.15 Entire Agreement. This Agreement, including the City of Midland Contract and APPENDICES attached hereto, and the Policies and the quote provided by TASER, represents the entire agreement between the Parties. The City of Midland Contract and this Agreement supersede 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. In the event that there is a conflict or inconsistency between the terms and conditions of the City of Midland Contract and this Master Services and Purchasing Agreement and APPENDICES, the terms and conditions of the City of Midland Contract shall control and

govern the rights and obligations of the Parties.

16.16 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: _____

Name: _____

Title: _____

Date: _____

Address: 17800 N. 85th Street Scottsdale, AZ 85255

Attn: Contracts

Email: contracts@taser.com

–the City of Midland, Texas

Signature: _____

Name: _____

Title: _____

Date: _____

Address: 300 N. Loraine St., Midland, TX, home-rule municipal corporatio

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 City will have access and use of the Evidence.com Services for the storage and management of City 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 City becomes aware of any violation of this Agreement by an end user, the City will immediately terminate that end user's access to City Content and the Evidence.com Services.
- 2** **City Owns City Content.** The City controls and owns all right, title, and interest in and to City Content and TASER obtains no rights to the City Content and the City Content are not business records of TASER. The City is solely responsible for the uploading, sharing, withdrawal, management and deletion of City Content. TASER will have limited access to City Content solely for the purpose of providing and supporting the Evidence.com Services to the City and City end users. The City represents that the City owns City Content; and that none of City Content or City end users' use of City 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 City 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 City 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 City Content. Log-in credentials are for City internal use only and City may not sell, transfer, or sublicense them to any other entity or person. The City agrees to be responsible for all activities undertaken by the City, City employees, City contractors or agents, and City end users which result in unauthorized access to the City account or City 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 City at any time. The City shall contact TASER immediately if an unauthorized third party may be using the City account or City 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 City 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 City Content or any information about the City 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 City Content so the City may file an objection with the court or administrative body. The City agrees to allow TASER access to certain information from the City 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 City Content will be stored and accessible by City end users. For United States customers, TASER will ensure that all City 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 City Content to third parties for the purpose of storage of City Content. Third party subcontractors responsible for storage of City Content are contracted by TASER for data storage services. Ownership of City Content remains with the City. For use of an Unlimited Evidence.com License unlimited data may be stored in the City'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 City 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 City Content.

8 **Suspension of Evidence.com Services.** TASER may suspend City 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 City 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 City 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 City 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 City nor any City 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 with this Agreement, and will immediately and automatically terminate if the City does not comply with any term or condition of this Agreement. The City may only use our trademarks in accordance with the TASER Trademark Use Guidelines (located at 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:

System set up and configuration Setup Axon® Mobile on smart phones (if applicable). Configure categories & custom roles based on City 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). Virtual Assistance Included
Dock installation Work with City to decide ideal location of Dock setup and set configurations on Dock if necessary. Authenticate Dock with Evidence.com using "admin" credentials from City. Work with City's IT to configure its network to allow for maximum bandwidth and proper operation within City's network environment. Virtual Assistance Included
Dedicated Project Manager 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 City 4–6 weeks prior to rollout.
Weekly project planning meetings 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 City'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.
Axon instructor training 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 City's subsequent Axon camera and Evidence.com training needs.
End user go live training and support sessions Provide individual device set up and configuration assistance; pairing with viewers when applicable; and training on device use, Evidence.com and EVIDENCE Sync.
Implementation document packet Evidence.com administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide
Post go live review session

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 City 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 City authorizes TASER to access relevant City 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 City. The City 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 City.

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 City or TASER), the City 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 City 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 City 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 City will sign the Checklist acknowledging completion of the Services once the on-site service session has been completed. If the City reasonably believes that TASER did not complete the Services in substantial conformance with this Agreement, the City 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 City 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 City is responsible for: (i) instituting proper and timely backup procedures for City software and data; (ii) creating timely backup copies of City software or data that may be damaged, lost, or corrupted due to our provision of Services; and (iii) using backup copies to restore any City software or data in the event of any loss of, damage to, or corruption of the operational version of City 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 City 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 City 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 City 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 City continues to pay the required annual fees for TAP. The City 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.
- 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 City location to replace broken or non-functioning units in order to improve the availability of the units to officers in the field. The City 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 City 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 City must return to TASER all Spare Products. The City 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 City purchases a new TAP for the Upgrade Models.
- 4 TAP Upgrade Models.** Upgrade Models are to be provided as follows during and/or after the TAP Term: (i) an upgrade will be provided in year 3 if the City 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 City purchased 5 years of Evidence.com services with an Ultimate License or Unlimited Licenses or OSP and made all TAP payments.

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 City must return the products to TASER or TASER will deactivate the serial numbers for the products received unless the City purchases additional Evidence.com licenses for the Axon camera products the City is keeping. The City may buy a new TAP for any Upgraded Model.

4.1. TAP Axon Camera Upgrade Models.

- 4.1.1.** If the City 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 City would like to change product models for the Upgrade Model, then the City 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.
- 4.1.2.** If the City 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 City's choice.

4.2. 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 City would like to change product models for the Upgrade Model or add additional bays, then the City 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.

5 TAP Termination. If an invoice for TAP is more than 30 days past due or the City 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:

- 5.1.** TAP coverage will terminate as of the date of termination and no refunds will be given.
- 5.2.** TASER will not and has no obligation to provide the free Upgrade Models.
- 5.3.** The City 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.
- 5.4.** The City will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TAP.
- 5.5.** If the City received Axon Products free of charge and TAP is terminated before the end of the term then (a) the City 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.

Axon Integration Services

Appendix

1. **Term.** The term of this SOW commences on the Effective Date. The actual work to be performed by TASER is not authorized to begin until TASER receives the signed Quote or a purchase order for the Integration Services, whichever is first.
2. **Scope of Integration Services.** The project scope will consist of the development of an integration module that allows the [EVIDENCE.com](#) services to interact with the City's RMS so that City's licensees may use the integration module to automatically tag the AXON® recorded videos with a case ID, category, and location. The integration module will allow the Integration Module License holders to auto populate the AXON video meta-data saved to the [EVIDENCE.com](#) services based on data already maintained in the City's RMS. TASER is responsible to perform only the Integration Services described in this SOW and any additional services discussed or implied that are not defined explicitly by this SOW will be considered out of the scope and may result in additional fees.
3. **Pricing.** All Integration Services performed by TASER will be rendered in accordance with the fees and payment terms set forth in the Quote.
4. **Delivery of Integration Services.**
 - 4.1 **Support After Completion of the Integration Services.** After completion of the Integration Services and acceptance by the City, TASER will provide up to 5 hours of remote (phone or Web-based) support services at no additional charge to the City. TASER will also provide support services that result because of a change or modification in the [EVIDENCE.com](#) services at no additional charge as long as the City maintains [EVIDENCE.com](#) subscription licenses and Integration Module Licenses, and as long as the change is not required because the City changes its RMS. Thereafter, any additional support services provided to the City will be charged at TASER's then current standard professional services rate.
 - 4.2 **Changes to Services.** Changes to the scope of the Integration Services must be documented and agreed upon by the Parties in a change order. If the changes cause an increase or decrease in any charges or cause a scheduling change from that originally agreed upon, an equitable adjustment in the charges or schedule will be agreed upon by the Parties and included in the change order, signed by both Parties.
 - 4.3 **Warranty.** TASER warrants that it will perform the Integration Services in a good and workmanlike manner.
5. **Acceptance.** TASER will present City with a completed Checklist (**Checklist**) certifying TASER's completion of the Integration Services. If City reasonably believes that TASER did not complete the Integration Services in substantial conformance with this SOW, City must notify TASER in writing of its specific reasons for rejection within 7 calendar days from delivery of the Checklist to the City. TASER will address the City's issues and will re-present the Checklist for the City's review. If TASER does not receive a written notification of the reasons for rejection of the Checklist, the absence of a response will constitute City's affirmative acceptance of the Integration Services, and a waiver of any right of rejection.
6. **City's Responsibilities.** TASER's successful performance of the Integration Services depends upon the City's:

- 6.1** Making available its relevant systems, including its current RMS, for assessment by TASER (including making these systems available to TASER via remote access if possible);
- 6.2** Making any required modifications, upgrades or alterations to City's hardware, facilities, systems and networks related to TASER's performance of the Integration Services;
- 6.3** Providing access to the building facilities and where TASER is to perform the Integration Services, subject to safety and security restrictions imposed by the City (including providing security passes or other necessary documentation to TASER representatives performing the Integration Services permitting them to enter and exit City premises with laptop personal computers and any other materials needed to perform the Integration Services);
- 6.4** Providing all necessary infrastructure and software information (TCP/IP addresses, node names, and network configuration) necessary for TASER to provide the Integration Services;
- 6.5** Promptly installing and implementing any and all software updates provided by TASER;
- 6.6** Ensuring that all appropriate data backups are performed;
- 6.7** Providing to TASER the assistance, participation, review and approvals and participating in testing of the Integration Services as requested by TASER;
- 6.8** Providing TASER with remote access to the City's [Evidence.com](#) account when required for TASER to perform the Integration Services;
- 6.9** Notifying TASER of any network or machine maintenance that may impact the performance of the integration module at the City; and
- 6.10** Ensuring the reasonable availability by phone or email of knowledgeable staff and personnel, system administrators, and operators to provide timely, accurate, complete, and up-to-date documentation and information to TASER (these contacts are to provide background information and clarification of information required to perform the Integration Services).

7 **Authorization to Access Computer Systems to Perform Services.** City authorizes TASER to access City's relevant computers, network systems, and RMS solely for the purpose of performing the Integration 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 City. City 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 City.

8 **Definitions.**
"Integration Services" means the professional services provided by us pursuant to this SOW.