

Evidence Terms of Service

For Terms of Service related to:

- Evidence Cloud, Evidence's hosting and user authentication service, see [Evidence Cloud ToS](#).
- Evidence Open Source Support, support services for its open source libraries, see [Evidence Open Source Support ToS](#)

Evidence Cloud

Last Updated: June 19, 2024

The following Evidence terms of service ("**Terms of Service**") govern Customer's access to and use of the Services (defined below). These Terms of Service, together with any Order Forms (if any) referencing these Terms of Service, SOWs (if any) referencing these Terms of Service (together, the "**Agreement**"), form a binding legal agreement between Evidence Technologies Canada, Inc. formerly known as Evidence Technologies, Inc. ("**Evidence**", "**we**" or "**us**") and the customer accessing, downloading, installing or otherwise using (the terms "**use**" and "**using**" will refer to any of the foregoing) the Services (such customer, the "**Customer**", "**you**" or "**your**"). This Agreement is entered into effective on the earlier of: (i) the date Customer first uses any part of the Services; and (ii) the date Customer agrees to be bound by this Agreement (the "**Effective Date**").

BY USING THE SERVICES (INCLUDING THE EVIDENCE SOLUTION), CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS READ, ACCEPTS AND AGREES TO BE BOUND BY AND COMPLY WITH THE TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT, AS AMENDED FROM TIME TO TIME IN ACCORDANCE WITH SECTION 14.12. IF CUSTOMER DOES NOT ACCEPT AND AGREE TO BE BOUND BY THIS AGREEMENT, CUSTOMER WILL IMMEDIATELY CEASE ANY FURTHER USE OF THE SERVICES. CUSTOMER REPRESENTS AND WARRANTS TO EVIDENCE THAT CUSTOMER HAS THE CAPACITY TO ENTER INTO THIS LEGALLY BINDING AGREEMENT. IF CUSTOMER IS USING THE SERVICES ON BEHALF OF ANOTHER PERSON OR ENTITY, CUSTOMER HEREBY REPRESENTS AND WARRANTS TO EVIDENCE THAT CUSTOMER HAS THE AUTHORITY TO BIND SUCH PERSON OR SUCH ENTITY TO THIS AGREEMENT.

THE SERVICES MAY NOT BE ACCESSED FOR PURPOSES OF MONITORING THEIR AVAILABILITY, PERFORMANCE OR FUNCTIONALITY, OR FOR ANY OTHER BENCHMARKING OR COMPETITIVE

PURPOSES.

EVIDENCE'S DIRECT COMPETITORS ARE PROHIBITED FROM ACCESSING THE SERVICES, EXCEPT WITH EVIDENCE'S PRIOR WRITTEN CONSENT.

1. Definitions.

Capitalized terms used in this Agreement have the meaning ascribed to them in the preamble or in this Section 1 as follows:

1.1 "Action" has the meaning set out in Section 11.1.

1.2 "Administrator User Account" has the meaning set out in Section 5.1

1.3 "Administrator Users" has the meaning set out in Section 5.1

1.4 "Affiliate" means, with respect to a party, any corporation or other legal entity which is directly or indirectly controlling or controlled by, or under common control with that party. As used in this definition, "**control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a corporation or legal entity.

1.5 "Aggregated Data" has the meaning set out in Section 3.1.

1.6 "Applicable Laws" means applicable statutes, by-laws, rules, regulations, orders, ordinances, guidelines or judgments, in each case of any Governmental or Regulatory Authority.

1.7 "Confidential Information" has the meaning set out in Section 9.1.

1.8 "Customer Client" means any Person that is a customer of Customer: (a) that Customer provides access to the Evidence Solution to its employees only for their internal use for the Customer's internal use; and (b) that can access any of the Evidence Solution only via a Customer User Account issued by Customer or Evidence or such other means as approved by Evidence in writing.

1.9 "Customer Content" means any data, information, content, records, and files, including Personal Information, that is encrypted and transmitted from one Customer Endpoint to one or more other Customer Endpoint(s).

1.10 "Customer Data" means other than Aggregated Data, any data, information, content, records, and files, including Personal Information, that Customer (or any of its Permitted Users) loads, makes available to and is accessed by, transmits to or enters into the Services, including the Customer Content and Reports.

1.11 “Customer Endpoint” means a device of Customer or a Permitted User that has the Evidence Software installed upon it.

1.12 “Customer Indemnitee” has the meaning set out in Section 11.1

1.13 “Customer User Accounts” has the meaning set out in Section 5.1.

1.14 “Deliverable” means a deliverable provided to Customer as a result of Professional Services.

1.15 “Dependencies” has the meaning set out in Section 2.5.

1.16 “Discloser” has the meaning set out in Section 9.1.

1.17 “Documentation” means Evidence’s manuals, instructions or other documents or materials that Evidence makes available to Customer in any form or medium and which describe the functionality, components, features or requirements of the Evidence Solution.

1.18 “Effective Date” has the meaning in the preamble.

1.19 “Employee Users” has the meaning set out in Section 5.1.

1.20 “Employee User Account” has the meaning set out in Section 5.1.

1.21 “Evidence Cloud Services” means Evidence’s proprietary software-as-a-service solution as may be more particularly described on the online purchasing portal or in an applicable Order Form (if applicable).

1.22 “Evidence Indemnitee” has the meaning set out in Section 11.3.

1.23 “Evidence Metadata” means the metadata that is generated by the Evidence Solution including any by the Evidence Software residing on the Customer Endpoints resulting from the processing of the Customer Data and that results from the ordinary course of the operation of the Evidence Software.

1.24 “Evidence Property” has the meaning set out in Section 3.2.

1.25 “Evidence Software” means the Evidence software product(s) described on the online purchase portal or in an Order Form (if applicable), in binary form (or in forms deemed appropriate at the sole discretion of Evidence) and any Updates that Evidence will make available from time to time. For the avoidance of doubt, Evidence Software does not include Third-Party Products.

1.26 “Evidence Software License Terms” has the meaning in Section 2.1.2i.

1.27 “Evidence Solution” means the Evidence Cloud Services and the Evidence Software.

1.28 “Feedback” has the meaning set out in Section 3.3.

1.29 “Free Services” means Services that Evidence makes available to Customer free of charge. The term **“Free Services”** excludes Services offered as a free trial and paid subscription.

1.30 “Fees” has the meaning in Section 8.1.

1.31 “Force Majeure” has the meaning set out in Section 14.6.

1.32 “Force Majeure Period” has the meaning set out in Section 14.6.

1.33 “Governmental or Regulatory Authority” means any national, provincial, state, county, municipal, quasi-governmental or self-regulatory department, authority, organization, agency, commission, board, tribunal, regulatory authority, dispute settlement panel or body, bureau, official, minister, Crown corporation, or other law, rule or regulation-making entity having jurisdiction over Evidence, Customer, the Services, the Customer Data or any other person, property, transaction, activity, event or other matter related to this Agreement, including subdivisions of, political subdivisions of and other entities created by, such entities.

1.34 “Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

1.35 “Loss” or “Losses” means any and all losses, damages, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable legal fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

1.36 “Modifications” means modifications, improvements, customizations, patches, bug fixes, updates, enhancements, aggregations, compilations, derivative works, translations and adaptations, and **“Modify”** has a corresponding meaning.

1.37 “Order Form” means any order form that references this Agreement and that is agreed to by the parties.

1.38 “Personal Information” means information of an identifiable individual transferred by Customer or its Permitted Users to Evidence hereunder.

1.39 “Permitted Purpose” means business purposes only or such other purpose that may be set out in applicable online purchasing portal or the Order Form (if applicable).

1.40 “Permitted User(s)” means Administrator Users, Employee Users and any Customer Clients: (i) who are authorized by Customer to access and use any Services under the rights granted to Customer pursuant to this Agreement; and (ii) for whom access to any Services has been purchased hereunder.

1.41 “Person” means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate or Governmental or Regulatory Authority, and where the context requires, any of the foregoing when they are acting as trustee, executor, administrator or other legal representative.

1.42 “Privacy Policy” has the meaning set out in Section 4

1.43 “Professional Services” means the consulting, training and other professional services described in a Statement of Work. The term **“Professional Services”** does not include Evidence Solution.

1.44 “Recipient” has the meaning set out in Section 9.1.

1.45 “Reports” means any reports created by Customer using the Evidence Solution or by Evidence pursuant to its performance of Professional Services under an applicable SOW.

1.46 “Services” means the Support Services, Professional Services and Evidence Solution collectively, and any part thereof. The term **“Services”** includes any services provided to Customer as Free Services or under a free trial, and made available online by Evidence, including associated Evidence’s offline components, as described in the Documentation. The term **“Services”** excludes Third-Party Products.

1.47 “SOW Term” has the meaning in the applicable SOW.

1.48 “Statement of Work” or **“SOW”** means a document that describes certain Professional Services purchased by Customer under this Agreement and/or pursuant to applicable online purchasing portal or the Order Form (if applicable). Each Statement of Work shall incorporate this Agreement by reference.

1.49 “Subscription Term” means the subscription term of each subscription to the Evidence Solution as specified in the applicable online purchasing portal or the Order Form (if applicable).

1.50 “Support Services” has the meaning in Section 6.

1.51 “Term” has the meaning in Section 13.1.

1.52 “Third-Party Products” has the meaning set out in Section 7.3.

1.53 “Updates” has the meaning in Section 7.1.

2. Access and Use.

2.1 Provision of Access.

2.1.1 Evidence Cloud Services. Subject to and conditioned on Customer's and its Permitted Users' compliance with the terms and conditions of this Agreement, Evidence hereby grants Customer a revocable, limited, non-exclusive, non-transferable, non-sublicensable (except as permitted herein to Permitted Users) right to access and use the Evidence Cloud Services during the Subscription Term, solely for use by Permitted Users in accordance with the terms and conditions herein. Such use is limited to the applicable Permitted Purpose. If applicable, the total number of Permitted Users will not exceed the number set forth in the online purchasing portal or an Order Form (if applicable), except as expressly agreed to in writing by the parties and subject to any appropriate adjustment of the Fees payable thereunder.

2.1.2 Evidence Software and Documentation License.

i. Use of the Evidence Solution may require or include use of downloadable Evidence Software. Customer and its Permitted Users use of the Evidence Software is subject to the license terms situated at <https://raw.githubusercontent.com/evidence-dev/evidence/main/LICENSE> or such other place as may be updated by Evidence's from time to time ("**Evidence Software Licence Terms**"). In the event of any inconsistency between the Evidence Software Licence Terms and this Agreement, the Evidence Software Licence Terms shall apply only with respect to the Evidence Software that the Evidence Software Licence Terms reference and not the Services provided under this Agreement.

ii. Subject to Customer's and its Permitted Users' compliance with this Agreement, Evidence hereby grants to Customer a revocable, limited, non-exclusive, non-transferable, non-sublicensable (except as provided herein) license to use the Documentation during the Subscription Term solely for the Permitted Purpose. Customer may sublicense the rights under Sections 2.1.1 and 2.1.2 to Permitted Users solely for the purposes set out in this Section 2.1. Third-Party Products that consist of downloadable software are subject to the terms of Section 7.3.

2.1.3 Free Trial. Evidence may make the applicable Evidence Solution available to Customer on a trial basis free of charge until the earlier of: (i) the end of the free trial period for which Customer registered to use the applicable Evidence Solution; (ii) the start date of any purchased subscriptions ordered by Customer for such Evidence Solution; or (iii) termination by Evidence in its sole discretion. Customer agrees that Evidence, in its sole discretion and for any or no reason, may terminate Customer's access to the free trial or any part thereof. Customer agrees that any termination of Customer's access to the free trial may be without prior notice, and Customer agrees that Evidence will not be liable to Customer or any third party for such termination. Additional trial terms and conditions may appear on the trial registration web page.

Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. ANY CUSTOMER DATA THAT CUSTOMER ENTERS INTO THE SERVICES (INCLUDING EVIDENCE SOLUTION) DURING CUSTOMER'S FREE TRIAL WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL, PURCHASES APPLICABLE UPGRADED SERVICES, OR EXPORTS SUCH DATA, BEFORE THE END OF THE TRIAL PERIOD. CUSTOMER CANNOT TRANSFER CUSTOMER DATA ENTERED DURING THE FREE TRIAL TO A SERVICE THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL; THEREFORE, IF CUSTOMER PURCHASES A SUBSCRIPTION THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL, CUSTOMER MUST EXPORT CUSTOMER DATA BEFORE THE END OF THE TRIAL PERIOD OR CUSTOMER DATA WILL BE PERMANENTLY LOST. NOTWITHSTANDING THE "WARRANTIES; DISCLAIMERS" SECTION AND "EVIDENCE INDEMNITIES" SECTION BELOW, DURING THE FREE TRIAL THE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND EVIDENCE SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE SERVICES FOR THE FREE TRIAL PERIOD UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE EVIDENCE'S LIABILITY WITH RESPECT TO THE SERVICES PROVIDED DURING THE FREE TRIAL SHALL NOT EXCEED \$1,000.00. WITHOUT LIMITING THE FOREGOING, EVIDENCE AND ITS AFFILIATES AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO CUSTOMER THAT: (I) CUSTOMER'S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL MEET CUSTOMER'S REQUIREMENTS; (II) CUSTOMER'S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR; AND (III) DATA PROVIDED DURING THE FREE TRIAL PERIOD WILL BE ACCURATE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE "LIMITATION OF LIABILITY" SECTION BELOW, CUSTOMER SHALL BE FULLY LIABLE UNDER THIS AGREEMENT TO EVIDENCE AND ITS AFFILIATES FOR ANY DAMAGES ARISING OUT OF CUSTOMER'S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD, ANY BREACH BY CUSTOMER OF THIS AGREEMENT AND ANY OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS HEREUNDER. CUSTOMER SHALL REVIEW THE APPLICABLE SERVICE'S DOCUMENTATION DURING THE TRIAL PERIOD TO BECOME FAMILIAR WITH THE FEATURES AND FUNCTIONS OF THE SERVICES BEFORE MAKING A PURCHASE.

2.1.4 Free Services. Evidence may make Free Services available to Customer. Use of Free Services is subject to the terms and conditions of this Agreement. In the event of a conflict between this section and any other portion of this Agreement, this section shall control. Free Services are provided to Customer without charge up to certain limits as described in the Documentation. Usage over these limits requires Customer's purchase of additional resources or services. Customer agrees that Evidence, in its sole discretion and for any or no reason, may terminate Customer's access to the Free Services or any part thereof. Customer agrees that any termination of Customer's access to the Free Services may be without prior notice, and Customer agrees that Evidence will not be liable to Customer or any third party for such termination. Customer is solely responsible for exporting Customer Data from the Free Services prior to termination of Customer's access to the Free Services for any reason, provided that if Evidence terminates

Customer's account, except as required by law Evidence will provide Customer a reasonable opportunity to retrieve its Customer Data. NOTWITHSTANDING THE "WARRANTIES; DISCLAIMERS" SECTION AND "EVIDENCE INDEMNITIES" SECTION BELOW, THE FREE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND EVIDENCE SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE FREE SERVICES UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE EVIDENCE'S LIABILITY WITH RESPECT TO THE FREE SERVICES SHALL NOT EXCEED \$1,000.00. WITHOUT LIMITING THE FOREGOING, EVIDENCE AND ITS AFFILIATES AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO CUSTOMER THAT: (I) CUSTOMER'S USE OF THE FREE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS; (II) CUSTOMER'S USE OF THE FREE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR; AND (III) USAGE DATA PROVIDED THROUGH THE FREE SERVICES WILL BE ACCURATE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE "LIMITATION OF LIABILITY" SECTION BELOW, CUSTOMER SHALL BE FULLY LIABLE UNDER THIS AGREEMENT TO EVIDENCE AND ITS AFFILIATES FOR ANY DAMAGES ARISING OUT OF CUSTOMER'S USE OF THE FREE SERVICES, ANY BREACH BY CUSTOMER OF THIS AGREEMENT AND ANY OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS HEREUNDER.

2.2 Restrictions on Use. Customer will not itself, and will not permit others (including but not limited to any Permitted Users) to: (i) sub-license, sell, rent, lend, lease or distribute the Evidence Solution or any Intellectual Property Rights therein or otherwise make the Evidence Solution available to the third parties other than Permitted Users; (ii) use the Evidence Solution to permit timesharing, service bureau use or commercially exploit the Evidence Solution; (iii) use or access the Services: (1) in violation of any Applicable Law or Intellectual Property Right; (2) in a manner that threatens the security or functionality of the Evidence Solution, including by taking any action that imposes, or that may impose, in Evidence's discretion, an unreasonable or disproportionately large load on Evidence's systems or infrastructure; or (3) for any purpose or in any manner not expressly permitted in this Agreement; (iv) use the Services to create, collect, transmit, store, use or process any Customer Data: (1) that contains any computer viruses, worms, malicious code, or any software intended to damage or alter a computer system or data; (2) that Customer does not have the lawful right to create, collect, transmit, store, use or process; or (3) that violates any Applicable Laws, or infringes, violates or otherwise misappropriates the Intellectual Property Rights or other rights of any third party (including any moral right, privacy right or right of publicity); (v) Modify the Evidence Solution; (vi) reverse engineer, de-compile or disassemble the Evidence Solution; (vii) remove or obscure any proprietary notices or labels on the Evidence Solution, including brand, copyright, trademark and patent or patent pending notices; (viii) access or use the Services for the purpose of building a similar or competitive product or service; (ix) perform any vulnerability, penetration or similar testing of the Evidence Solution; or (x) use or access the Services in any manner that is contrary to any additional restrictions set out in the online purchasing portal, an Order Form (if applicable) or for any purpose or in any manner not expressly permitted in this Agreement.

2.3 Suspension; Modifications. Evidence may from time to time and in its discretion, without limiting any of its other rights or remedies at law or in equity under this Agreement: (i) suspend Customer's access to or use of the Evidence Solution or any component thereof: (1) for scheduled maintenance; (2) if there is a Force Majeure event; (3) if Customer or any Permitted User violates any provision of this Agreement, including without limitation any of the restrictions set out in Section 2.2 above; (4) to address any emergency security concerns; (5) if required to do so by a Governmental or Regulatory Authority or as a result of a change in Applicable Law; or (6) for non payment of undisputed Fees when due; and (ii) Modify the Evidence Solution provided that Modification does not decrease the material functionality of the Evidence Solution.

2.4 Subcontracting. Evidence may engage third parties to assist it in providing the Services or any part thereof. The delegating or subcontracting of all or any part of Evidence's obligations under this Agreement to any subcontractor will not relieve Evidence from any obligation or liability under this Agreement.

2.5 Professional Services. Evidence will use commercial reasonable efforts to perform Professional Services set out in each applicable Statement of Work agreed between the parties. If requested by Customer, Evidence will negotiate and enter into additional Statements of Work with Customer. Each Statement of Work will be deemed to incorporate by reference the provisions of this Agreement (excluding the provisions of other Statements of Work), unless the applicable Statement of Work expressly provides otherwise. The parties may also set out Deliverables to be delivered by Evidence in an applicable SOW. Customer acknowledges and agrees that Evidence's performance of the Professional Services is dependent on Customer's performance of certain activities and tasks as may be reasonably requested by Evidence to facilitate Evidence's timely performance of the Professional Services, including, without limitation, providing Evidence with access to sufficiently qualified employees of Customer, Customer facilities, or working space or office support at such Customer facilities ("**Dependencies**"). Evidence will not be liable for any delay or non-performance of any Professional Services caused by Customer's non-performance or inadequate performance of any Dependencies. All Professional Services will be performed remotely unless otherwise indicated in the SOW as being an on-site provided service. Within 5 days of Evidence's delivery of a Deliverable, Customer will provide Evidence with written notice of its acceptance or rejection of such Deliverable. If Customer rejects any such Deliverable, Evidence will correct the deficiencies set out in Customer's notice of rejection for such Deliverable. Once Evidence has notified Customer that it has completed such corrections, Customer will have 5 days from the date of such notice to re-test the Deliverable. If Customer uses any Deliverable delivered by Evidence or fails to give notice of acceptance or rejection within the time period set out herein, such use of any Deliverable or failure to give notice of acceptance or rejection will constitute Customer's deemed acceptance of such Deliverable.

3. Ownership; Reservation of Rights

3.1 Customer Data. Customer retains all right, title and interest including all Intellectual Property Rights in or to the Customer Data. Customer grants to Evidence: (i) a nonexclusive, worldwide, royalty-free, transferable, sublicensable, and fully paid-up licence during the Term to access, collect, use, process, store, disclose, transmit, transfer, copy, Modify and display Customer Data to provide the Services; and (ii) a nonexclusive, perpetual, worldwide, royalty-free, irrevocable, transferable, sublicensable, and fully paid-up licence to access, collect, use, process, store, disclose, transmit, transfer, copy, Modify and display Customer Data to: (1) improve and enhance the Services and its other offerings; (2) generate Evidence Metadata; and (3) generate aggregated statistical data that: (A) is anonymized; (B) cannot be re-identified by Evidence; and (C) does not contain any Personal Information or identify any customers of Customer or Customer (such data, information and materials, the **"Aggregated Data"**). Customer agrees that Evidence may: (i) make Aggregated Data publicly available in compliance with Applicable Law and (ii) use Aggregated Data to the extent and in the manner permitted under Applicable Law. For greater clarity, Aggregated Data will not contain any Customer's Confidential Information.

3.2 Evidence Property. Evidence or its licensors retain all rights, title and interest including all Intellectual Property Rights in and to: (i) the Services; (ii) Evidence Solution; (iii) Documentation; (iv) the Evidence Metadata; (v) other than Customer Data, anything used, developed or delivered by or on behalf of Evidence under this Agreement including without limitation any Aggregated Data and Deliverables (excluding any Reports); and (vi) any Modifications to the foregoing (**"Evidence Property"**).

3.3 Customer grants to Evidence and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services, any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Permitted Users relating to the operation of Services or any of Evidence's affiliates' services (**"Feedback"**). Nothing in this Agreement will restrict our right to use, profit from, disclose, publish or otherwise exploit any Feedback, without compensation to the Customer or Permitted Users and without any obligation to the Customer or any Permitted User. Evidence is not obligated to use any Feedback.

3.4 All rights not expressly granted by Evidence to Customer under this Agreement are reserved.

4. Privacy

Customer understands that Personal Information will be treated in accordance with Evidence's privacy policy located at <https://evidence.dev/cloud/privacy-policy> or such other place as may be updated by Evidence's from time to time (the **"Privacy Policy"**). Evidence may, without Customer consent, revise its Privacy Policy from time to time, as is customary business practice in its field (e.g., to incorporate improvements in its solutions offerings or align its practices with changing regulatory requirements).

5. Customer User Account; Customer Responsibilities

5.1 In order for Customer to access and use the Evidence Solution, Evidence will issue one or more administrator accounts ("**Administrator User Account**") to Customer for use by Administrator User (as defined below), that provides Customer with the capability to create user accounts for Employee Users (each a "**Employee User Account**"), other Permitted Users and together with the Administrator User Accounts the ("**Customer User Accounts**"). Customer will ensure that each Permitted User only uses the Evidence Solution through its assigned Customer User Account. Customer will not allow any Permitted User to share its Customer User Account with any other person. "**Employee Users**" means those active employees of Customer that are permitted by Customer to access and use the Evidence Solution through an Employee User Account. "**Administrator Users**" means those employees of Customer that are authorized by Customer to access and use the Evidence Solution on Customer's behalf through an Administrator User Account. Customer will promptly notify Evidence of any actual or suspected unauthorized use of the Evidence Solution. Evidence reserves the right to suspend, deactivate, or replace a Customer User Account if it determines that a Customer User Account may have been used for an unauthorized purpose.

5.2 Customer will solely be responsible for: (i) the accuracy, quality and legality of Customer Data, the means by which Customer acquired Customer Data, Customer's use of Customer Data with the Services, and the interoperation of any third party products or systems with which Customer uses Services; (ii) providing, at its own expense, all network access to the Services, including, without limitation, acquiring, installing and maintaining all telecommunications equipment, hardware, software and other equipment as may be necessary to connect to, access and use the Services; (iii) properly configuring and using the Services and taking its own steps to maintain appropriate security, protection and backup of its infrastructure (including without limitation any databases, servers, and any other protocol) which may include the use of encryption technology to protect such infrastructure from unauthorized access and routine archiving of such infrastructure; and (iv) using the Services in accordance with this Agreement and Applicable Laws.

5.3 Customer is responsible for identifying and authenticating all Permitted Users and for ensuring only Permitted Users access and use Evidence Solution. Customer shall ensure that all Permitted Users comply with this Agreement and that none of the Permitted Users bring or maintain any Action (defined below) against Evidence, its shareholders, employees, officers, directors, Affiliates, agents, contractors, successors, and assigns and those of its Affiliates in respect of any matter related to or in connection with the subject matter of this Agreement. Customer shall be liable for any breach by a Permitted User of this Agreement.

5.4 Customer may be provided with a "subdomain" or multiple subdomains on the evidence.app domain, in

which case said subdomain(s) will become the location(s) of the Customer's hosted Evidence project(s). Subdomain names may be chosen by Customer or automatically generated by Evidence. For public projects, Evidence reserves the right to change or remove any subdomain name on evidence.app without prior notice.

6. Support

Subject to the terms hereof (including Customer's payment of applicable Fees), as part of the Services, Evidence will provide Customer with support services ("**Support Services**"). The level and requirements of Support Services purchased by Customer will be identified in the online purchasing portal or Order Form (if applicable). Unless otherwise set out in the applicable online purchasing portal or Order Form (if applicable), Customer will only receive and Evidence will only perform basic Support Services in accordance with Evidence then current support practices. For clarity and avoidance of all doubt, Customer is not entitled to Support Services for any free trial, Free Services or for other tiers of subscriptions to the applicable Evidence Solution as set out in the online purchasing portal or Order Form (if applicable).

7. Updates to the Evidence Software; Third-Party Products

7.1 General Updates to Evidence Software. Evidence may, in its sole discretion, include the provision of updates, upgrades, bug fixes, patches and other error corrections as Evidence makes generally available to other licensees of the Evidence Software (collectively, the "**Updates**"). All Updates will be deemed to be Evidence Software subject to the terms and conditions of this Agreement. Customer is required to accept all Updates made by or on behalf of Evidence to the Evidence Software. If Customer does not wish to install the Updates, it should not license the Evidence Software. Evidence may require that Customer accept and install Updates to the Evidence Software as a condition to the licenses granted in this Agreement or the applicable Evidence Software Licence Terms. Except for any automatic Updates provided by Evidence pursuant to Section 7.2 below, Evidence will use commercially reasonable efforts to provide Customer with prior notice of such Updates. Upon such notice, Customer will, through its Administrator Accounts, install such Updates promptly following receipt of such Update from Evidence.

7.2 Automatic Updates to Evidence Software. The Evidence Software may automatically communicate with Evidence's servers or the Evidence Cloud Services to permit the Evidence Software to perform in accordance its specifications, to record and collect Customer Data and to receive Updates. The Updates may be automatically installed without providing any additional notice or receiving any additional consent. Customer consents to these automatic Updates.

7.3 Third-Party Products. The Evidence Solution may contain or require the use of third party technology

that is licensed under separate license terms, and not under this Agreement or other third party products that are owned by third parties (collectively “**Third-Party Products**”). Customer is responsible for separately obtaining or licensing such technology. Customer will accept and comply with the license terms applicable to Third-Party Products. If Customer does not agree to abide by the applicable license terms for any such Third-Party Products, then Customer should not install, access, or use such Third-Party Products. Any acquisition by Customer of such Third-Party Products, and any exchange of data between Customer and any such provider of Third-Party Products is solely between Customer and the applicable Third-Party Products provider. Evidence does not warrant or support Third-Party Products or other third party products, offerings or services, whether or not they are designated by Evidence as “**certified**” or otherwise. Evidence cannot guarantee the continued availability of such Third-Party Products features, and may cease providing them without entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third-Party Products ceases to make the Third-Party Products available for interoperation or otherwise in connection with the corresponding service features in a manner acceptable to Evidence. Evidence is not responsible for any disclosure, Modification or deletion of Customer Data resulting from access by such Third-Party Products or its provider.

8. Fees and Payment

8.1 Fees. Customer will pay Evidence the then applicable fees set out in the online purchasing portal, SOW (if applicable), or in an Order Form (if applicable) in accordance with the terms set out therein (the “**Fees**”). Fees are non-cancellable and non-refundable (unless otherwise provided in this Agreement). Evidence may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Evidence thirty (30) days after the date of the invoice. If Customer’s use of the Services exceeds the service capacity set forth on the online purchasing portal or Order Form (if applicable), SOW or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. If Customer requests that Evidence provide it with services in addition to the Services, Customer will be billed for such additional services based on Evidence’s standard rates.

8.2 Changes to the Fees. Evidence reserves the right to change the Fees or applicable charges and to institute new charges and Fees, upon thirty (30) days prior notice to Customer (which may be sent by email).

8.3 Disputed Invoices or Charges. If Customer believes that Evidence has billed Customer incorrectly, Customer must contact Evidence no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Evidence’s customer support department. In the event of a dispute, Customer will pay any undisputed amounts in accordance with the payment terms herein, and the parties will discuss the

disputed amounts in good faith in order to resolve the dispute.

8.4 Late Payment. Customer may not withhold or setoff any amounts due under this Agreement. If Customer fails to make any payment when due, without limiting Evidence's other rights and remedies, Evidence may: (i) charge interest at the rate of one and a half percent (1.5%) compounded monthly (19.56% annually), or the maximum legal rate (if less), plus all expenses of collection, until fully paid; and (ii) If such failure continues for five (5) days following written notice thereof, Evidence may: (1) suspend, in accordance with Section 2.3, Customer's and all other Permitted Users' access to any portion or all of the Services until such amounts are paid in full; or (2) terminate the Agreement immediately on notice (which may be sent by electronic means to the account administrator), without incurring any obligation or liability to Customer or any other Person by reason of such suspension or termination.

8.5 Taxes. The Fees set out in this Agreement do not include applicable sales, use, gross receipts, value-added, GST or HST, personal property or other taxes. Customer will be responsible for and pay all applicable taxes, duties, tariffs, assessments, export and import fees or similar charges (including interest and penalties imposed thereon) on the transactions contemplated in connection with this Agreement, other than taxes based on the net income or profits of Evidence.

8.6 Suspension. Any permitted suspension of the Services by Evidence pursuant to the terms of this Agreement will not excuse Customer from its obligation to make payments of Fees, unless such Fees are subject to a dispute per Section 8.3 under this Agreement.

8.7 Credit Card. A valid payment method, including credit card, is required to process the payment of Fees. Customer shall provide Evidence with accurate and complete billing information including full name, address, state, zip code, telephone number, and a valid payment method information. By submitting such payment information, Customer automatically authorizes Evidence to charge all Fees incurred through Customer's account to any such payment instruments. Should automatic billing fail to occur for any reason, Evidence will issue an electronic invoice indicating that Customer must proceed manually, within a certain deadline date, with the full payment corresponding to the billing period as indicated on the invoice.

8.8 Payment Processor. Payment and collection of Fees is enabled through and executed by a third party payment processors. Transaction fees associated with the individual payment and collection of Fees or amounts under this Agreement are as outlined in the pricing plan provided to Customer. Customer may be required to agree to terms and conditions as required by such third party payment processor from time to time. Prior to using the Services and any components thereof, Customer must have all applicable such third party payment processor's terms and conditions in effect. By using the Services or any component thereof, Customer acknowledges it must be in full compliance with the terms and conditions of such third party payment processor and be in good standing with such third party payment processor.

9. Confidential Information

9.1 Definitions. For the purposes of this Agreement, a party receiving Confidential Information (as defined below) will be the “**Recipient**”, the party disclosing such information will be the “**Discloser**” and “**Confidential Information**” means any and all information of Discloser or any of its licensors that has or will come into the possession or knowledge of the Recipient in connection with or as a result of entering into this Agreement, including information concerning the Discloser’s past, present or future customers, suppliers, technology or business, including, where the Discloser is Customer, Customer’s Confidential Information includes the Customer Data, and, where the Discloser is Evidence, Evidence’s Confidential Information includes the Evidence Property; provided that Discloser’s Confidential Information does not include, except with respect to Personal Information: (i) information already known or independently developed by Recipient without access to Discloser’s Confidential Information; (ii) information that is publicly available through no wrongful act of Recipient; or (iii) information received by Recipient from a third party who was free to disclose it without confidentiality obligations.

9.2 Confidentiality Covenants. Recipient hereby agrees that during the Term and at all times thereafter it will not, except to exercise its rights or perform its obligations under this Agreement:

9.2.1 disclose Confidential Information of the Discloser:

i. in the case the Customer to any Person, except to its Permitted Users that have a “**need to know**” for the purposes of receiving or providing the Services and that have entered into written agreements no less protective of such Confidential Information than this Agreement; or

ii. in the case of Evidence to Evidence’s employees, independent contractors, advisors, consultants, agents and its Affiliates, that have a “**need to know**” for the purposes of receiving or providing the Services and that have entered into written agreements no less protective of such Confidential Information than this Agreement and to its subcontractors and contractors to perform the Services or to its subcontractors for the purpose of providing the Services;

9.2.2 use Confidential Information of the Discloser other than to exercise its rights or perform its obligations under this Agreement; or

9.2.3 alter or remove from any Confidential Information of the Discloser any proprietary legend. Each party will take industry standard precautions to safeguard the other party’s Confidential Information, which will in any event be at least as stringent as the precautions that the Recipient takes to protect its own Confidential Information of a similar type.

9.3 Exceptions to Confidentiality. Notwithstanding Section 9.2, Recipient may disclose Discloser’s

Confidential Information: (i) to the extent that such disclosure is required by Applicable Law or by the order of a court or similar judicial or administrative body, provided that, except to the extent prohibited by law, the Recipient promptly notifies (unless prohibited by Applicable Law) the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order; or (ii) to its legal counsel and other professional advisors if and to the extent such persons need to know such Confidential Information in order to provide applicable professional advisory services in connection with the party's business; or (iii) in the case of Evidence, to potential assignees, acquirers or successors of Evidence if and to the extent such persons need to know such Confidential Information in connection with a potential sale, merger, amalgamation or other corporate transaction involving the business or assets of Evidence.

9.4 Injunction and other equitable relief. Each party acknowledges and agrees that a breach or threatened breach by such party of any of its obligations under Section 8 or, in the case of Customer, Section 2.2 or Section 3, would cause the other party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

9.5 Return of Confidential Information. Upon the termination or expiration of this Agreement and all including all Order Forms (if any) t, each party will promptly return to the other party or destroy all Confidential Information (excluding any Customer Data which is addressed in Section 13.4.1) of the other party in its possession or control within a reasonable amount of time in accordance with the Recipient's data destruction practices. Notwithstanding the foregoing, Evidence may retain any electronically archived Customer's Confidential Information, provided that such retained information remains subject to the confidentiality obligations in this Agreement.

10. Warranty; Disclaimer

10.1 Each party represents, warrants, and covenants that:

10.1.1 it has full power and all necessary rights and authority to enter into this Agreement and to perform its obligations hereunder; and

10.1.2 it will carry out its obligations under this Agreement in compliance with Applicable Laws, rules and regulations, applicable to it and the Services.

10.2 Customer Representations and Warranties. Customer represents and warrants to, and covenants with, Evidence that: (i) the Customer Data will only contain Personal Information in respect of which Customer has provided all notices and disclosures (including to each Permitted User), obtained all applicable third party consents and permissions and otherwise has all authority, in each case, as required by Applicable Laws including applicable privacy laws, to enable Evidence to provide the Evidence Solution, including with respect to the collection, storage, access, use, disclosure, processing and transmission of Personal Information, including by or to Evidence and to or from all applicable third parties; (ii) Customer and its Permitted Users will comply with all Applicable Laws; and (iii) Customer will not: (A) permit any Permitted User to access and use the Evidence Solution from a country that is subject to any embargo by the United States or Canada; or (B) permit any Permitted User that is on the Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury list or on the U.S. Department of Commerce's Denied Persons List or Entity List, or on the U.S. Treasury Department's list of Specially Designated Nationals, to access or use any Services.

10.3 Evidence Warranties. Evidence warrants that: (i) the functionality of the applicable Evidence Solution will not be decreased from the functionality as outlined in the Documentation during the Subscription Term in any material way; (ii) it will perform the Professional Services in a professional and workmanlike manner; and (iii) the media on which any part of the applicable Evidence Solution will be delivered by Evidence free from all viruses and malicious code (provided that this warranty does not extend to any malicious code or virus introduced into the Evidence Solution by the Customer). For any breach of a warranty above, Evidence's sole liability and Customer's sole and exclusive remedy is to terminate the Agreement pursuant to Section 13.3.1(i). THE FOREGOING WARRANTY DOES NOT APPLY, AND EVIDENCE STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.

10.4 GENERAL DISCLAIMER. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT EVIDENCE DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS CAN OR WILL BE CORRECTED; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT AND SUBJECT TO THE SERVICE LEVELS AGREED TO IN THE AGREEMENT, THE SERVICES (AND ANY PART THEREOF) ARE PROVIDED "AS IS". OTHER THAN AS EXPRESSLY PROVIDED FOR HEREIN, EVIDENCE MAKES NO WARRANTIES UNDER THIS AGREEMENT WITH RESPECT TO ANY THIRD PARTY SOFTWARE, HARDWARE OR OTHER PRODUCTS EMBEDDED IN OR INCLUDED WITH THE SERVICES OR FURNISHED TO CUSTOMER BY EVIDENCE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EVIDENCE HEREBY DISCLAIMS ALL EXPRESS, IMPLIED, COLLATERAL, OR STATUTORY WARRANTIES, REPRESENTATIONS, AND CONDITIONS, WHETHER WRITTEN OR ORAL, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, COMPATIBILITY, TITLE, SECURITY, RELIABILITY, COMPLETENESS, QUIET ENJOYMENT, ACCURACY, QUALITY, INTEGRATION OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY WARRANTIES OR

CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF ANY OF THE FOREGOING, AND OTHER THAN AS EXPRESSLY SET OUT IN THIS AGREEMENT, EVIDENCE EXPRESSLY DISCLAIMS ANY REPRESENTATION, CONDITION, OR WARRANTY THAT ANY DATA OR INFORMATION PROVIDED TO CUSTOMER IN CONNECTION WITH CUSTOMER'S USE OF THE SERVICES (OR ANY PART THEREOF) IS ACCURATE, OR CAN OR SHOULD BE RELIED UPON BY CUSTOMER FOR ANY PURPOSE WHATSOEVER.

11. Indemnity

11.1 Evidence Indemnities. Evidence will defend, indemnify and hold harmless Customer, and its officers, directors, employees and agents (each, a "**Customer Indemnitee**") from and against any and all Losses incurred by a Customer Indemnitees arising out of or relating to any claim, action, demand, inquiry, audit, proceeding, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity or otherwise (collectively, an "**Action**") by a third party (other than an Affiliate of an Evidence Indemnitee) that arise from or relate to any allegation that the Evidence Solution infringe any third-party Intellectual Property Right in Canada or the United States. The foregoing obligation does not apply to any Action or Losses arising out of or relating to any: (i) incorporation of any of the Evidence Solution into, or any combination, operation, or use of the Evidence Solution with, any products or services not provided or authorized by Evidence, unless such infringement would also have resulted solely from the use of the Evidence Solution without their incorporation in, or combination, operation or use, with such other products or services; (ii) Modification of the Evidence Solution other than by Evidence or with Evidence's express written approval; or (iii) Customer's indemnities in Section 11.3; or (iv) unauthorized use of the Evidence Solution. This Section 11.1 will not apply to the extent that any such third party Action arises from Customer Data or Third-Party Products. This Section 11.1 states the Evidence's sole liability to, and the Customer Indemnitees sole and exclusive remedy against, Evidence for any third party claim described in this section.

11.2 If the Evidence Solution is, or in Evidence's opinion is likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Right, or if Customer's use of any portion of the Evidence Solution are enjoined or threatened to be enjoined, Evidence may, at its option and sole cost and expense:

11.2.1 obtain the right for the Customer to continue to use the affected Evidence Solution materially as contemplated by this Agreement;

11.2.2 Modify or replace Evidence Solution, in whole or in part, to seek to make the Evidence Solution (as so modified or replaced) non-infringing while providing materially equivalent features and functionality, in which case such modifications or replacements will constitute Evidence Solution under this Agreement; or

11.2.3 if Evidence determines that neither of the foregoing two options are reasonably available, by written notice to Customer, terminate this Agreement, require Customer to immediately cease all use of the Evidence Solution or part or feature thereof and, as Customer Indemnitees sole and exclusive remedy, provide pro rata refund of any unused prepaid Fees for the terminated Evidence Solution, if applicable. THE FOREGOING IS IN LIEU OF ANY REPRESENTATION, COVENANTS OR WARRANTIES OF NONINFRINGEMENT, WHICH ARE DISCLAIMED.

11.3 Customer Indemnities. Customer will defend, indemnify and hold harmless Evidence, and its officers, directors, employees and agents (each, a **"Evidence Indemnitee"**) from and against any and all Losses incurred by Evidence Indemnitees arising out of or relating to any Action by a third party (other than an Affiliate of an Evidence Indemnitee) that arise from or relate to: (i) Customer Data; (ii) Customer's breach of Sections 2.2, 5, 10.1, 10.2, or 14.4; or (iii) unauthorized use of the Evidence Solution (or any part thereof) by Customer or any Permitted User. Customer will fully cooperate with Evidence in the defense of any claim defended by Customer pursuant to its indemnification obligations under this Agreement and will not settle any such claim without the prior written consent of Evidence.

11.4 Indemnification Procedure. The indemnifying party's obligations as set forth above are expressly conditioned upon each of the foregoing: (i) the indemnified party promptly notifying the indemnifying party in writing of any threatened or actual claim or suit, provided, however, that failure to give prompt notice will not relieve the indemnifying party of any liability hereunder (except to the extent the indemnifying party has suffered actual material prejudice by such failure); (ii) the indemnifying party having sole control of the defense or settlement of any claim or suit (provided the indemnifying party may not settle any claim without the indemnified party's written consent unless it unconditionally releases the indemnified party of all liability); and (iii) the indemnified party (at the indemnifying party's expense) reasonably cooperating with the indemnifying party to facilitate the settlement or defense of any claim or suit.

12. Limitation of Liabilities

The parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

12.1 AMOUNT. EXCEPT AS OTHERWISE PROVIDED IN SECTION 12.3, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY IN CONNECTION WITH OR UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER FOR THE EVIDENCE SOLUTION IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE

TO THE CLAIM. FOR GREATER CERTAINTY, THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THIS AGREEMENT WILL NOT INCREASE THIS MAXIMUM LIABILITY AMOUNT.

12.2 TYPE. EXCEPT AS OTHERWISE PROVIDED IN SECTION 12.3, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY: (I) SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (II) LOST OR LOSS OF (1) SAVINGS, (2) PROFIT, (3) DATA, (4) USE, OR (5) GOODWILL; (III) BUSINESS INTERRUPTION; (IV) COSTS FOR THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES; (V) PERSONAL INJURY OR DEATH; OR (VI) PERSONAL OR PROPERTY DAMAGE ARISING OUT OF OR IN ANY WAY CONNECTED TO THE SERVICES OR THIS AGREEMENT, REGARDLESS OF CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITIES OF SUCH DAMAGES.

12.3 EXCEPTIONS. THE EXCLUSIONS AND LIMITATIONS IN SECTIONS 12.1 AND 12.2 DO NOT APPLY TO LIMIT: (I) EITHER PARTY'S OBLIGATIONS UNDER SECTIONS 11.1 and 11.3; (II) LOSSES ARISING OUT OF OR RELATING TO CUSTOMER'S BREACH OF ITS OBLIGATIONS UNDER SECTIONS 2.2, 5, 10.2, AND 14.4; (III) EITHER PARTY'S BREACH OF SECTION 9 (CONFIDENTIAL INFORMATION) (PROVIDED THAT EVIDENCE'S LIABILITY FOR AN ACCIDENTAL OR UNLAWFUL DESTRUCTION, LOSS, ALTERATION, UNAUTHORIZED DISCLOSURE OF, OR ACCESS TO CUSTOMER DATA, RESULTING FROM A BREACH OF SECTION 9 (CONFIDENTIAL INFORMATION) IS LIMITED TO THE LIABILITY CAP IN SECTION 12.1 ABOVE); (IV) CUSTOMER'S PAYMENT OBLIGATIONS IN THIS AGREEMENT; OR (V) A PARTY'S GROSS NEGLIGENCE, WILFUL MISCONDUCT OR FRAUD.

13. Term and Termination

13.1 Term; Subscription Term; and SOW Term.

13.1.1 Term. The term of this Agreement commences on the Effective Date and continues until the stated term in all subscriptions for the Evidence Solution have expired or have otherwise been terminated ("**Term**").

13.1.2 Subscription Term. Subscriptions to the Evidence Solution commences on the subscription start date and are for the Subscription Term as set forth in the online purchasing portal or an Order Form (if applicable). Except as otherwise specified in the online purchasing portal or an Order Form (if applicable), subscriptions to the Evidence Solution will automatically renew for additional terms equal to the expiring Subscription Term, unless and until either party gives the other notice of non-renewal at least thirty (30) days prior to the end of the then-current Subscription Term.

13.1.3 SOW Term. Each SOW will commence on the start date as set forth in the SOW and will be for the SOW Term as defined in such applicable SOW.

13.2 Termination for Convenience. Evidence may terminate this Agreement, any subscriptions for the Evidence Solution, Order Forms (if any), or SOWs (if any) at any time and for any reason without liability or penalty by providing at least 30 days advance written notice to Customer. Upon Evidence's termination of this Agreement pursuant to this Section 13.2, Evidence will refund to Customer, on a pro-rata basis, any unused Fees prepaid under this Agreement for any period following the effective date of termination.

13.3 Termination for Cause.

13.3.1 A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Notwithstanding the foregoing, Evidence may terminate this Agreement immediately if: (i) Customer breaches any restrictions on use in Section 2.2; (ii) as provided in Section 8.4; or (iii) if required by Applicable Law.

13.3.2 If this Agreement is terminated by Customer due to Evidence's material breach pursuant to Section 13.3.1, Evidence will provide Customer with a pro rata refund of any unused Fees prepaid by Customer applicable to the period following the effective date of termination of the Agreement.

13.3.3 If this Agreement is terminated by Evidence due to Customer's material breach pursuant to Section 13.3.1 Customer will remain liable to pay the full Fees outstanding on the effective date of termination of the Agreement. Evidence will invoice, and Customer will pay, any accrued but unbilled Fees and any unpaid Fees covering the remainder of the term of the Agreement had it not been terminated.

13.4 Effect of Termination. Upon expiration or termination of this Agreement:

13.4.1 Customer will immediately cease (and ensure that all Permitted Users immediately cease) accessing or using the Services provided that upon request by Customer made within 30 days after the effective date of termination or expiration of this Agreement, Evidence will make Customer Data available to Customer for export or download as provided in the Documentation. After such 30-day period, Evidence will have no obligation to maintain or provide any Customer Data, and as provided in the Documentation will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited;

13.4.2 Customer will, as instructed by Evidence, return, delete or destroy Evidence Property in its

possession, and certify in writing to the Evidence that the Evidence Property has been returned or deleted or destroyed;

13.4.3 All Order Forms (if any) and SOWs (if any) will also terminate;

13.4.4 All Fees due and payable and subject to Section 8.3, any amounts due to Evidence are immediately due and are to be immediately paid by Customer to Evidence; and

13.4.5 Other than as otherwise provided for in this Agreement, no expiration or termination will affect or relieve Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle the Customer to any refund.

13.5 Survival. The following Sections, together with any other provision of this Agreement which expressly or by its nature survives termination or expiration, or which contemplates performance or observance subsequent to termination or expiration of this Agreement, will survive expiration or termination of this Agreement for any reason: Section 8 (Fees and Payment), Section 9 (Confidential Information), Section 10 (Warranty; Disclaimer), Section 12 (Limitation of Liabilities), Section 13.5 (Survival), and Section 14 (General Provisions).

14. General Provisions

14.1 Notices. Notices sent to either party will be effective when delivered in writing and in person or by email, one day after being sent by overnight courier, or five days after being sent by first class mail postage prepaid to the official contact designated by the party to whom a notice is being given. Notices will be sent: (i) if to Evidence, to the following address:

Evidence Technologies Canada, Inc.
169 Madison Ave #2110
New York, NY 10016

Email: support@evidence.dev

and (ii) if to Customer, to the current postal or email address that Evidence has on file with respect to Customer. Evidence may change its contact information by posting the new contact information on its website, through the Evidence Solution or by giving notice thereof to Customer. Customer is solely responsible for keeping its contact information on file with Evidence current at all times during the Term.

14.2 Assignment. This Agreement is not assignable, transferable or sublicensable by Customer except with Evidence's prior written consent. Evidence may transfer and assign any of its rights and obligations under

this Agreement without consent. Any purported assignment or delegation by a party in violation of this Section will be null and void. Subject to the foregoing, this Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns.

14.3 Governing Law and Attornment. This Agreement and any action related thereto will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflicts of law principles. The parties will initiate any lawsuits in connection with this Agreement in Toronto, Ontario Canada, and irrevocably attorn to the exclusive personal jurisdiction and venue of the courts sitting therein. Notwithstanding the foregoing, a party may commence lawsuits to seek injunctive relief with respect to a violation of its Intellectual Property Rights or breach of confidentiality obligations; in each case, in any appropriate jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

14.4 Export Restrictions. Customer shall not to directly or indirectly export, re-export or import all or any portion of the Evidence Solution without first obtaining all required licenses, permits and permissions. Evidence makes no representation or warranty that the Evidence Solution may be exported without Customer first obtaining appropriate licenses or permits under Applicable Law, or that any such license or permit has been, will be, or can be obtained.

14.5 Construction. Except as otherwise provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. The terms "**include**" and "**including**" mean, respectively, "**include without limitation**" and "**including without limitation.**" The headings of sections of this Agreement are for reference purposes only and have no substantive effect.

14.6 Force Majeure. Neither party will be liable for delays caused by any event or circumstances beyond that party's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems (other than those involving that party's employees), Internet service failures or delays, or the unavailability or Modification by third parties of telecommunications or hosting infrastructure or third party websites ("**Force Majeure**"). This Section does not apply to any of Customer's obligations under Sections 8 (Fees and Payment), 9 (Confidentiality) or 11 (Indemnity). The excused party will: (i) recommence performance of the obligations that it has failed to perform as a result of the Force Majeure event without delay, including through the use of alternate sources, workaround plans or other means; and (ii) provide sufficient documentation to establish to the reasonable satisfaction of the other party the impact of the Force Majeure event. The parties agree that in the event of a Force Majeure event affecting a party continues for four (4) weeks ("**Force Majeure Period**"), either party will be entitled to terminate this Agreement, by providing at least ten (10) days' written notice to the other party after the completion of the Force Majeure Period. In the event of such termination,

Customer's sole remedy and Evidence's sole liability will be to refund any prepaid Fees for the applicable Evidence Solution.

14.7 Customer Lists. Evidence may identify the Customer by name and logo as a Evidence customer on Evidence's website and on other promotional materials. Any goodwill arising from the use of the Customer's name and logo will inure to the benefit of the Customer.

14.8 Severability. Any provision of this Agreement found by a tribunal or court of competent jurisdiction to be invalid, illegal or unenforceable will be severed from this Agreement and all other provisions of this Agreement will remain in full force and effect.

14.9 Waiver. A waiver of any provision of this Agreement will be in writing and a waiver in one instance will not preclude enforcement of such provision on other occasions.

14.10 Independent Contractors. Evidence's relationship to Customer is that of an independent contractor, and neither party is an agent or partner of the other. Neither party will have, and neither party will represent to any third party that it has, any authority to act on behalf of the other party.

14.11 Entire Agreement. This Agreement (including all Order Forms (if any) and SOWs (if any) hereunder) constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, representations or other communications between the parties, whether written or oral. This Agreement replaces and terminates any prior agreed agreement, terms of service or other terms and conditions agreed between the parties related to the Services, including the Evidence Solution. Any terms and conditions appearing on a purchase order or similar document issued by Customer, or in Customer's procurement, invoicing, or vendor onboarding portal: (i) do not apply to the Services or Evidence Solution; (ii) do not override or form a part of this Agreement (including without limitation any Order Form); and (iii) are void.

14.12 AMENDMENTS. CUSTOMER ACKNOWLEDGES AND AGREES THAT EVIDENCE HAS THE RIGHT, IN ITS SOLE DISCRETION, TO MODIFY THIS AGREEMENT FROM TIME TO TIME, AND THAT MODIFIED TERMS BECOME EFFECTIVE ON POSTING. CUSTOMER WILL BE NOTIFIED OF MODIFICATIONS THROUGH NOTIFICATIONS OR POSTS ON <https://evidence.dev/cloud/terms>. CUSTOMER IS RESPONSIBLE FOR REVIEWING AND BECOMING FAMILIAR WITH ANY SUCH MODIFICATIONS. CUSTOMER'S CONTINUED USE OF THE SERVICES AFTER THE EFFECTIVE DATE OF THE MODIFICATIONS WILL BE DEEMED ACCEPTANCE OF THE MODIFIED TERMS.

14.13 Order of Precedence. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) these Terms of Service; (2) the applicable Order Form (if any); (3) the

applicable SOW (if any); and (4) the Documentation. Notwithstanding the foregoing, the provisions of an Order Form or SOW will prevail over the provisions in these Terms of Service to the extent that such Order Form or SOW expressly references a provision of these Terms of Service and states that it is intending to

 evidence



14.14 No Third Party Beneficiaries. Except as set forth in Sections 11.1 and 11.3, and except for Evidence's licensors, nothing in this Agreement, express or implied, is intended to or will confer upon any person other than the applicable party and their respective successors and permitted assigns any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.

14.15 English Language. It is the express wish of the parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

Evidence Open Source Support

Last Updated: Sept 30, 2024

The following Open Source Support terms of service ("**Open Source Support Terms of Service**") govern Customer's use of the Services (defined below). These Open Source Support Terms of Service, together with any Order Forms (if any) referencing these Open Source Support Terms of Service, (together, the "**Agreement**"), form a binding legal agreement between Evidence Technologies Canada, Inc. formerly known as Evidence Technologies, Inc. ("**Evidence**", "**we**" or "**us**") and the customer using (the terms "**use**" and "**using**" will refer to any of the foregoing) the Services (such customer, the "**Customer**", "**you**" or "**your**"). This Agreement is entered into effective on the earlier of: (i) the date Customer first purchases the services using the online purchasing portal; and (ii) the date Customer agrees to be bound by this Agreement (the "**Effective Date**").

BY ACCEPTING THIS AGREEMENT, CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS READ, ACCEPTS AND AGREES TO BE BOUND BY AND COMPLY WITH THE TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT, AS AMENDED FROM TIME TO TIME IN ACCORDANCE WITH SECTION 11.12. IF CUSTOMER DOES NOT ACCEPT AND AGREE TO BE BOUND BY THIS AGREEMENT, CUSTOMER WILL IMMEDIATELY CEASE ANY FURTHER USE OF THE SERVICES. CUSTOMER REPRESENTS AND WARRANTS TO EVIDENCE THAT CUSTOMER HAS THE CAPACITY TO ENTER INTO THIS LEGALLY BINDING AGREEMENT. IF CUSTOMER IS USING THE SERVICES ON BEHALF OF ANOTHER PERSON OR ENTITY, CUSTOMER HEREBY REPRESENTS AND WARRANTS TO EVIDENCE THAT CUSTOMER HAS THE AUTHORITY TO BIND SUCH PERSON OR SUCH ENTITY TO THIS AGREEMENT.

1. Services.

Service Provider will provide to Customer the services set out below, or as specified in any Order Form if applicable (the "**Services**"). Service Provider will provide the Services in accordance with the terms and subject to the conditions set forth in this Agreement. All Services will be performed remotely unless otherwise indicated in an Order Form as being an on-site provided service. The Parties may identify Services in an order form mutually agreed to by the Parties ("**Order Form**"). Any Order Form when duly executed, will be incorporated into and subject to this Agreement. Services and Response Times set out in any Order Form will prevail and govern over this Agreement as specified in section 11.11. Any Order Form will become effective on the effective date set out therein and, unless otherwise provided in the Order Form, will continue for the term indicated in the Order Form, unless earlier terminated in accordance with the terms of this Agreement.

Item	Description	Response Times
Private Slack Support	Private Slack Channel for support on using the Evidence Open Source library and Evidence Cloud for named users.	N/A
OSS Bug Prioritization	Bugs named users open in the Evidence Open Source repo will be tagged and prioritized ahead of others.	N/A
Priority Releases	Evidence will release ahead of schedule on demand if features named users request are merged but not released.	N/A

Customer will provide written notification of the request to Evidence by sending a message on Slack to the support channel, #evidence-[customername], or such other Slack channel designated by Evidence.

For clarity, the Response Times in the table above are initial response times only and not resolution times. Initial response commences at the time that Evidence receives the applicable Request Notification from Customer.

A named user is a single, non-transferrable user account in the designated support channel.

2. Fees and Payment.

For the Services to be performed hereunder, Customer will pay to Service Provider the fees as specified in the applicable online purchasing portal or in accordance with the payment terms set forth in any Order Form (if applicable) (the "**Fees**"). All Fees are non cancellable and non refundable. Service Provider reserves the right to change the Fees and to institute new Fees upon 30 days prior notice to Customer

(which may be sent by email). Customer will be responsible for all goods and services, harmonized sale, sales, service, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, provincial, territorial, or local governmental entity or regulatory authority on any amounts payable by Customer hereunder; provided that in no event will Customer pay or be responsible for any taxes imposed on, or with respect to, Service Provider's income. Customer will not withhold or setoff any amounts due under this Agreement. If Customer fails to make any payment when due, without limiting Service Provider's other rights and remedies, Service Provider may: (i) charge interest at the rate of one and a half percent (1.5%) compounded monthly (19.56% annually), or the maximum legal rate (if less), plus all expenses of collection, until fully paid; and (ii) If such failure continues for five (5) days following written notice thereof, Service Provider may, in its sole discretion: (a) suspend the Services; or (b) terminate this Agreement, including any Order Form, on notice, without incurring any obligation or liability to Customer by reason of such suspension or termination. Any permitted suspension of the Services by Service Provider pursuant to the terms of this Agreement will not excuse Customer from its obligation to make payments of Fees, unless such Fees are subject to a dispute per Section 8.3 under this Agreement.

3. Intellectual Property.

3.1. All intellectual property rights, including copyrights, patents, patent disclosures, and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how, and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works, and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, work product, and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of Service Provider in the course of performing the Services (collectively, the "**Deliverables**") except for any Confidential Information of Customer or Customer Materials will be owned exclusively by Service Provider. Service Provider hereby grants Customer a limited, revocable, non-exclusive, worldwide, non-transferable, non-sublicensable, fully paid-up license during the Term to use the Deliverables solely to the extent necessary to enable Customer to make reasonable use of the Services.

3.2. In order to facilitate the performance by Service Provider of the Services, Customer may provide to Service Provider certain of its or its licensors' software, hardware, content, materials, technology, intellectual property or data (collectively, the "**Customer Materials**"). Customer is and will be the exclusive owner of all of Customer Materials and all Intellectual Property Rights therein. Customer hereby grants to Service Provider, during the Term, a non-exclusive, worldwide, non-exclusive, sublicensable, transferable license during the Term to use the Customer Materials to perform the Services.

4. Confidentiality.

4.1. Definitions. For the purposes of this Agreement, a Party receiving Confidential Information (as defined below) will be the “**Recipient**”, the Party disclosing such information will be the “**Discloser**” and “**Confidential Information**” of the Discloser means any and all information of the Discloser or any of its licensors that has or will come into the possession or knowledge of the Recipient in connection with or as a result of entering into this Agreement, including information concerning the Discloser’s past, present or future customers, suppliers, technology or business, provided that the Discloser’s Confidential Information does not include: (a) information already known or independently developed by the Recipient without access to the Discloser’s Confidential Information; (b) information that is publicly available through no wrongful act of the Recipient; or (c) information received by the Recipient from a third party who was free to disclose it without confidentiality obligations. For clarity, Service Provider’s Confidential Information includes all Deliverables and any other Service Provider’s or its licensors’ property provided to or disclosed to Customer pursuant to this Agreement.

4.2. Confidentiality Covenants. The Recipient hereby agrees that during the Term and at all times thereafter it will not, except to exercise its license rights or perform its obligations under this Agreement:

4.2.1. disclose Confidential Information of the Discloser to any person, except to:

4.2.1.1 in the case of Customer to its own employee having a “need to know” and that have entered into written agreements no less protective of such Confidential Information than this Agreement, and to such other recipients as the Discloser may approve in writings; or

4.2.1.2. in the case of Service Provider to Service Provider’s employees, consultants, agents or affiliates, having a “need to know” and that have entered into written agreements no less protective of such Confidential Information than this Agreement; to such other recipients as the Discloser may approve in writing; and to its subcontractors or contractors to perform the Services;

4.2.2. use Confidential Information of the Discloser; or

4.2.3. alter or remove from any Confidential Information of the Discloser any proprietary legend.

Each Party will take industry standard precautions to safeguard the other Party’s Confidential Information, which will in any event be at least as stringent as the precautions that the Recipient takes to protect its own Confidential Information of a similar type.

4.3. Exceptions to Confidentiality. Notwithstanding Section 4.2, the Recipient may disclose the Discloser’s Confidential Information: (i) to the extent that such disclosure is required by applicable law or by the order of a court or similar judicial or administrative body, provided that, except to the extent prohibited by law,

the Recipient promptly notifies the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order; (ii) to its legal counsel and other professional advisors, if and to the extent such persons need to know such Confidential Information in order to provide applicable professional advisory services in connection with the Party's business; or (ii) in the case of Service Provider, to potential assignees, acquirers or successors of Service Provider if and to the extent such persons need to know such Confidential Information in connection with a potential sale, merger, amalgamation or other corporate transaction involving the business or assets of Service Provider.

4.4. Return of Confidential Information. Upon the termination or expiration of this Agreement, each Party will promptly return to the other Party or destroy all Confidential Information of the other Party in its possession or control within a reasonable amount of time, in accordance with the Recipient's data destruction practices. Notwithstanding the foregoing, Service Provider may retain any electronically archived Customer's Confidential Information, provided that such retained information remains subject to the confidentiality obligations in this Agreement.

4.5. Injunction and other equitable relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 4, would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

5. Term.

This Agreement will commence as of the Effective Date and will continue for one (1) month unless sooner terminated pursuant to Section 6 (the "**Initial Term**"). This Agreement will automatically renew for continuous one month periods (each a "**Renewal Term**" and together with the Initial Term, the "**Term**"), unless either Party provides notice to the other Party that it does not wish to renew this Agreement at least 30 days prior to the end of the Initial Term or then current Renewal Term. The term of each Order Form will be set out in the Order Form. If the term of an Order Form extends past the termination or expiry of this Agreement, then the terms and conditions of this Agreement that apply to or govern such Order Form will survive until the termination or expiry of the Order Form. For greater certainty, no new Order Form under this Agreement may be entered into between the Parties after the termination or expiry of this Agreement.

6. Termination; Survival.

(a) Termination. Either Party may, in addition to other relief, terminate this Agreement, including any Order Form, if the other Party commits a material breach of this Agreement and fails to correct such breach within 30 calendar days after receipt of notice of such breach. Service Provider may in its discretion terminate this Agreement effective immediately upon delivery of notice of termination to Customer if Customer becomes insolvent, ceases to conduct business in the ordinary course, takes any step or proceeding available to Customer for the benefit of insolvent debtors, or is subject to a proceeding for liquidation, dissolution or winding up, or a receiver, receiver-manager, liquidator or trustee in bankruptcy. Upon expiration or earlier termination of this Agreement, Customer will immediately discontinue use of the Service Provider Services and Customer will delete or, if requested by Service Provider, return any Deliverables in its possession and certify in writing to the Service Provider that the Deliverables have been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle the Customer to any refund. All Fees due and payable and any amounts due to Service Provider are immediately due and are to be immediately paid by Customer to Service Provider.

(b) Survival. The following Sections, together with any other provision of this Agreement which expressly or by its nature survives termination or expiration, or which contemplates performance or observance subsequent to termination or expiration of this Agreement, will survive expiration or termination of this Agreement for any reason: Section 2 (Fees and Payment), Section 4 (Confidentiality), Section 8 (b) (Disclaimer), Section 9 (Limitation of Liabilities), Section 6 (b) (Survival), and Section 10 (Miscellaneous).

7. Independent Contractor.

The details of the method and manner for performance of the Services by Service Provider will be under its own control, Customer being interested only in the results thereof. The Service Provider will be solely responsible for supervising, controlling, and directing the details and manner of the completion of the Services. Nothing in this Agreement will give Customer the right to instruct, supervise, control, or direct the details and manner of the completion of the Services. Service Provider is for all purposes hereunder an independent contractor and in no event will Service Provider be considered an agent or employee of Customer or any of its subsidiaries or affiliates for any purpose.

8. Warranty; Disclaimers.

(a) Service Provider Representation and Warranty. Service Provider represents and warrants that it will perform the Services in a workmanlike and professional manner.

(b) Disclaimers. EXCEPT AS PROVIDED IN SECTION 8 (A), SERVICE PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS CAN OR WILL BE CORRECTED; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. THE SERVICES (AND ANY PART THEREOF) ARE PROVIDED "AS IS". OTHER THAN AS EXPRESSLY PROVIDED FOR HEREIN, SERVICE PROVIDER MAKES NO WARRANTIES UNDER THIS AGREEMENT WITH RESPECT TO ANY THIRD PARTY SOFTWARE, HARDWARE OR OTHER PRODUCTS EMBEDDED IN OR INCLUDED WITH THE SERVICES, OR ANY DELIVERABLES FURNISHED TO CUSTOMER BY SERVICE PROVIDER. TO THE EXTENT PERMITTED BY APPLICABLE LAW, SERVICE PROVIDER HEREBY DISCLAIMS ALL EXPRESS, IMPLIED, COLLATERAL, OR STATUTORY WARRANTIES, REPRESENTATIONS, AND CONDITIONS, WHETHER WRITTEN OR ORAL, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, COMPATIBILITY, TITLE, SECURITY, RELIABILITY, COMPLETENESS, QUIET ENJOYMENT, ACCURACY, QUALITY, INTEGRATION OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF ANY OF THE FOREGOING, SERVICE PROVIDER EXPRESSLY DISCLAIMS ANY REPRESENTATION, CONDITION, OR WARRANTY THAT DELIVERABLE, ANY DATA OR INFORMATION PROVIDED TO CUSTOMER IN CONNECTION WITH CUSTOMER'S USE OF THE SERVICES (OR ANY PART THEREOF) IS ACCURATE, OR CAN OR SHOULD BE RELIED UPON BY CUSTOMER FOR ANY PURPOSE WHATSOEVER. Service Provider's sole and exclusive liability and Customer's sole and exclusive remedy for breach of the limited warranty set out in this Section will be for Service Provider to use commercially reasonable efforts to cure any such breach.

9. Indemnities.

9.1. Customer Indemnity. Customer will indemnify, defend and hold harmless Service Provider from and against any and all losses, claims or damages suffered or incurred by Service Provider arising from or in connection with or relating to any claim, action, demand, inquiry, audit, proceeding, or investigation by a third party that arises from or relates to the Customer Materials and Service Provider's use of the Customer Materials in delivering the Services.

9.2. Service Provider Indemnity. Service Provider will indemnify, defend and hold harmless Customer from and against any and all losses, claims or damages suffered or incurred by Customer arising from or in connection with or relating to any claim, action, demand, inquiry, audit, proceeding, or investigation by a third party that arises from or relates to any allegation that the Deliverables infringe any third-party Intellectual Property Right in Canada or the United States. The foregoing obligation does not apply if the applicable claim arises from or relates to: (a) incorporation of any of the Deliverables into, or any combination, operation, or use of the Deliverables with, any products or services not provided or authorized by Service Provider, unless such infringement would also have resulted solely from the use of

the Deliverables without their incorporation in, or combination, operation or use, with such other products or services; (b) modification of the Deliverables other than by Service Provider or with Service Provider's express written approval; or (c) Customer's indemnities in Section 9.1. This Section 9.2 states Service Provider's sole liability to, and Customer's sole and exclusive remedy against, Service Provider for any third party claim described in this section.

9.3. Indemnification Procedure. Each Party will promptly notify the other Party in writing of any claim for which such Party believes it is entitled to be indemnified pursuant to this Section 9. The Party seeking indemnification (the "**Indemnitee**") will cooperate with the other Party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor will promptly take control of the defense and investigation of such claim and will employ counsel of its choice to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee's failure to perform any obligations under this Section 9.3 will not relieve the Indemnitor of its indemnity obligations under this Section 9 except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

10. Limitation of Liability.

The Parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

10.1. AMOUNT. IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF SERVICE PROVIDER IN CONNECTION WITH OR UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), OR OTHERWISE, EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER FOR THE SERVICES UNDER WHICH THE LIABILITY AROSE IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM. FOR GREATER CERTAINTY, THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THIS AGREEMENT WILL NOT INCREASE THIS MAXIMUM LIABILITY AMOUNT. IN NO EVENT WILL SERVICE PROVIDER'S THIRD PARTY SUPPLIERS HAVE ANY LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.

10.2. TYPE. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL SERVICE PROVIDER BE LIABLE TO CUSTOMER FOR ANY: (I) SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (II) LOST OR LOSS OF (i) SAVINGS, (ii) PROFIT, (iii) DATA, (iv) USE, OR (v) GOODWILL; (III) BUSINESS INTERRUPTION; (IV) COSTS FOR THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES; (V) PERSONAL INJURY OR DEATH; OR (VI) PERSONAL OR

PROPERTY DAMAGE ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, REGARDLESS OF CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), OR OTHERWISE, AND EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITIES OF SUCH DAMAGES.

11. Miscellaneous.

11.1. Notices. Notices sent to either Party will be effective when delivered in writing and in person or by email, one day after being sent by overnight courier, or five days after being sent by first class mail postage prepaid to the official contact designated by the Party to whom a notice is being given. Notices must be sent: (i) if to Service Provider, to the following Service Provider's address and email contact:

Evidence Technologies Canada, Inc.

169 Madison Ave #2110

New York, NY 10016

Email: support@evidence.dev

and (ii) if to Customer, to the current mailing or email address that Service Provider has on file with respect to Customer. Service Provider may change its contact information by giving notice thereof to Customer. Customer is solely responsible for keeping Customer's contact information on file with Service Provider current at all times during the Term.

11.2. Assignment. Customer may not assign this Agreement to any third party without Service Provider's prior written consent. Any purported assignment or delegation by Customer in violation of this Section will be null and void. Service Provider may assign this Agreement or any rights under this Agreement to any third party without Customer's consent. This Agreement enures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

11.3. Governing Law and Attornment. This Agreement and any action related thereto will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflicts of law principles. The Parties will initiate any lawsuits in connection with this Agreement in Toronto, Ontario, Canada, and irrevocably attorn to the exclusive personal jurisdiction and venue of the courts sitting therein. The U.N. Convention on Contracts for the

International Sale of Goods will not apply to this Agreement. This choice of jurisdiction does not prevent Service Provider from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.

11.4. Export Restrictions. Customer will comply with all export laws and regulations that may apply to its access to or use of the Services and Deliverables. Service Provider makes no representation or warranty that the Services or Deliverables may be exported without Customer first obtaining appropriate licenses or permits under applicable law, or that any such license or permit has been, will be, or can be obtained.

11.5. Construction. Except as otherwise provided in this Agreement, the Parties' rights and remedies under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. The terms "include" and "including" mean, respectively, "include without limitation" and "including without limitation." The headings of sections of this Agreement are for reference purposes only and have no substantive effect. The terms "consent" or "discretion" mean the right of a Party to withhold such consent or exercise such discretion, as applicable, arbitrarily and without any implied obligation to act reasonably or explain its decision to the other Party.

11.6. Force Majeure. Neither Party will be liable for delays caused by any event or circumstances beyond that Party's reasonable control (except for a failure by Customer to pay Fees or Customer's indemnities under this Agreement), including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems (other than those involving that Party's employees), internet service failures or delays, or the unavailability by third parties of telecommunications or hosting infrastructure or third party websites ("**Force Majeure**"). For clarity, a Force Majeure event will not excuse the Customer from its failure to pay Fees or Customer's indemnities under this Agreement.

11.7. Severability. Any provision of this Agreement found by a tribunal or court of competent jurisdiction to be invalid, illegal or unenforceable will be severed from this Agreement and all other provisions of this Agreement will remain in full force and effect.

11.8. Waiver. A waiver of any provision of this Agreement must be in writing and a waiver in one instance will not preclude enforcement of such provision on other occasions.

11.9. Independent Contractors. Service Provider's relationship to Customer is that of an independent contractor, and neither Party is an agent or partner of the other. Neither Party will have, and neither Party will represent to any third party that it has, any authority to act on behalf of the other Party.

11.10. Customer Lists. Service Provider may identify the Customer by name and logo as an Evidence customer on Service Provider's website and on other promotional materials. Any goodwill arising from the

use of the Customer's name and logo will inure to the benefit of the Customer.

11.11. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, representations or other communications between the Parties, whether written or oral. For clarity, this Agreement will govern Service Provider's provision and Customer's receipt of the Services. Any terms and conditions appearing on a purchase order or similar document issued by Customer, or in Customer's procurement, invoicing, or vendor onboarding portal: (i) do not apply to the Services or Deliverables (ii) do not override or form a part of this Agreement; and (iii) are void. In the event of a conflict or inconsistency between any schedules, attachments, Order Forms and this Agreement, this Agreement will govern and prevail; provided, however, that the provisions of the applicable Order Form will prevail over this Agreement to the extent the Order Form expressly refers to the provisions of this Agreement. If Customer has procured or is using any other technology, software, or service provided by Service Provider under an open source license, then the following license will govern Customer's use of such technology, software, or service: <https://github.com/evidence-dev/evidence/blob/main/LICENSE.md>.

11.12. Amendments. No amendment, supplement, modification, waiver, or termination of this Agreement and, unless otherwise expressly specified in this Agreement, no consent or approval by any Party, will be binding unless executed in writing by the Party or Parties to be bound thereby.

11.13. No Third Party Beneficiaries. Except for Service Provider's licensors, nothing in this Agreement, express or implied, is intended to or will confer upon any person other than the applicable party and their respective successors and permitted assigns any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.

11.14. Counterparts. This Agreement may be signed in counterparts. An electronic signature using a qualified electronic certificate or facsimile signature will be treated in all respects as having the same effect as an original signature.

11.15. English Language. It is the express wish of the parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

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