

SaaS Terms and Conditions

These United Public Safety Terms and Conditions are related to and deemed incorporated into the CONTRACT aforementioned between United Public Safety, Inc., a Pennsylvania corporation having a principal place of business in 321 Morris Road, Fort Washington, Pennsylvania (“UPsafety”), and the Client (the “Client”). Client’s execution of a CONTRACT referencing these Terms and Conditions shall be deemed Client’s agreement to these Terms and Conditions. In the event of any conflict between the terms of the CONTRACT and these Terms and Conditions, the CONTRACT shall control with respect to such conflicting terms.

1. Definitions

For purposes of these Terms and Conditions, the terms below shall have the meanings defined below. Additional terms are defined in the preamble above and throughout these Terms and Conditions.

- 1.1. “Client Content” means any data, databases, information, trademarks, service marks, logos, files, images, text, files, records or other content that may be provided by or on behalf of Client or its authorized users for use in conjunction with the Software or Services.
- 1.2. “SaaS Term” means the period during which the Services and access to the Software will be provided by UPsafety to Client as defined in the CONTRACT.
- 1.3. “Services” means the hosting, maintenance, support and other services provided by UPsafety pursuant to these Terms and Conditions.
- 1.4. “Software” means the software specified in the CONTRACT, with “Management Platform” referring to the internet accessible management portal, and “Mobile” referring to the Android based data collection software.
- 1.5. “UPsafety Content” means any information, documentation or other materials provided to Client by UPsafety relating to the Software, including, without limitation, the User Documentation.
- 1.6. “User Documentation” means the UPsafety user documentation relating to the Software.
- 1.7. “CONTRACT” means the agreement accepting the costs and terms of the products and services sold to Client by UPsafety.
- 1.8. “Web Sites” means the web sites of UPsafety, including the web sites that provide access to the Software.

2. Web-Based License

UPsafety grants to Client, and Client accepts, a nontransferable, nonexclusive license and right to access the Management Software via the Internet, and to the Mobile Software through Android devices on which UPsafety has installed their software at the client’s behest. Client agrees to the use of this Software and the User Documentation only as authorized in these Terms and Conditions, for its own internal purpose and operations, during the SaaS Term. Client acknowledges that its access to and use of the back end management Software will be web-based only. This Software will not be provided to Client in CD-ROM or DVD form (or any other form of media) and will not be installed on any servers or other computer equipment owned or otherwise controlled by Client. Instead, the Management Software will be hosted by UPsafety (as described in Section 3) and accessed and used by Client through the use of the Internet and Client’s computers, while Mobile Software will be installed on Client Android devices exclusively by UPsafety.

3. **Accessibility**

UPsafety will provide Client access to the latest supported version of the Management Platform Software via the Internet, from the Microsoft Azure hosting facility leased by UPsafety on a 24x7 basis, except for scheduled and emergency maintenance as set forth in Section 9, Mobile Software, which may be installed on Client's android devices, will also be accessible 24x7, but may lack connectivity to the Management Platform during maintenance periods, or in the absence of wireless connectivity.

4. **Limitations**

The maximum number of Client's employees, Contractors, volunteers, and other agents that are simultaneously accessing or using the Software at any given time shall not exceed the number of users specified in the CONTRACT. Client's use of the Software may not exceed the scope of the use provisions above without the express written agreement of UPsafety.

5. **Permitted Uses**

Consistent with and subject to UPsafety's database permissions and limitations, users shall be permitted access to the UPsafety CityCite® products for the following uses (but only such uses) as described below:

By users as permitted and authorized by Client within the terms and features of the CONTRACT:

- (i) Issuance & Management of Citations, Tickets & Permits
- (ii) Customization & Management of Settings, Rules, Reporting and User Permissions
- (iii) Customization & Management of Public Citation Management Portal

The permitted uses described herein shall only be permitted during the Saas Term. Client agrees that upon expiration or termination of the Saas Term, all rights granted to Client shall immediately terminate and revert to UPsafety, and Client shall destroy the UPsafety Content and any and all copies thereof, in any form, and shall erase from all computer, electronic, or other storage device or otherwise destroy all images and copies of the UPsafety Content, and shall provide certification as to the same.

6. **Hyperlinks**

UPsafety's web sites may contain hyperlinks to other web sites which are not maintained by, or related to, UPsafety. Hyperlinks to such web sites are provided as a service to users and are not sponsored by or affiliated with the Web Site(s) or UPsafety. UPsafety does not continuously monitor or review any or all of such web sites and is not responsible for the content of those web sites. Hyperlinks are to be accessed at the user's own risk, and UPsafety makes no representations or warranties about the content, completeness or accuracy of these hyperlinks or the web sites hyperlinked to the Web Sites. UPsafety provides hyperlinks as a convenience, and the inclusion of any hyperlinks to a third party web site does not necessarily imply endorsement by UPsafety of that web site or any association with its operators. UPsafety has no liability for any damage or loss that Client or its users may suffer as a result of the use of any third-party web sites.

7. **Additional Storage Fees**

UPsafety shall provide a default maximum storage space of 250 GB, which includes the backup and retention thereof, to the Client within the hosted environment. Any additional data usage beyond the initial 250 GB will be billed in accordance with the real increased cost levied by Microsoft, as specified in the CONTRACT.

8. Maintenance Window

UPsafety and/or its hosting or telecommunications vendor(s) may perform system maintenance within the following "Maintenance Windows" during which time access to the Software, Services and Client Data may be temporarily unavailable:

- (i) "Security Maintenance/Upgrade Window" – Nightly between 12 a.m. and 6 a.m. U.S. Eastern Time for application of periodically distributed security/software updates as provided by operating system, network, and firewall vendors, or UPsafety.
- (ii) "Emergency Maintenance Window" – In the event there is an unforeseen issue that causes the Software or the Services to be unavailable or the performance of the Software or the Services to be materially inhibited, in which case the Software or Services may be temporarily unavailable while UPsafety and its vendors work to resolve the issue.

Client understands and agrees that there may be instances when UPsafety needs to interrupt access to the Software without notice in order to protect the integrity of the Software or Services due to security issues, virus attacks, spam issues or other unforeseen circumstances.

9. Availability

9.1 Commitment Level. UPsafety will provide "availability" to the Software during the SaaS Term, calculated and defined within CONTRACT. Any Maintenance Window shall not be included as downtime for purposes of determining availability.

9.2 System Monitoring. UPsafety will monitor performance indicators on the systems and network infrastructure (its own and that of third party suppliers) in order to gauge the overall performance of its hosting services, and will take reasonable steps to address systems and network infrastructure as required to maintain application performance. UPsafety will use an internal system to measure whether the Software is available, and Client agrees that this system will be the sole basis for resolution of any dispute that may arise between Client and UPsafety regarding these Terms and Conditions. UPsafety will not systematically monitor Client Content, but UPsafety reserves the right to review Client Content from time to time in its discretion. UPsafety reserves the right to (a) disable access to or delete any Client Content which it determines in its sole discretion (such discretion to be exercised in good faith) to be illegal, obscene, threatening, defamatory, fraudulent, infringing, harassing, or otherwise offensive, and (b) disable access to or delete any other Client Content under justified exigent circumstances, as such circumstances are determined in good faith by UPsafety. UPsafety also reserves the right to monitor, restrict, and terminate Client's ability to build, run and obtain reports and batch jobs/processes through the use of the Software or Services if Client is using excessive computing resources which are impacting the performance of the Software and Services for other subscribers. UPsafety agrees to notify Client in cases where it restricts or terminates such reports or jobs/processes and use good faith efforts to determine an appropriate alternative or work-around solution.

10. Upgrades

UPsafety will install upgrades/releases of the Software which are generally made available to its other subscribers, including patches and/or fixes, as they are made available, at no charge during the SaaS Term.

11. Client Responsibilities

Client will retain responsibility for administering security within the UPsafety applications (e.g., the granting of rights to a user for a specific form in the application), including maintaining the secrecy of all usernames and passwords. Client shall be responsible for all actions taken using the usernames and passwords provided to Client. Client is responsible for maintaining its user desktops and other devices and providing users network and internet access to the Software. Client is also responsible for ensuring that its users comply with these Terms and Conditions with respect to use of the Software and Services. Client shall provide secure connectivity to the Internet for its location(s) for purposes of providing adequate access to Software hosted at the Hosting Site. UPsafety shall not be responsible for the reliability or continued availability of the communications lines, or the corresponding security configurations, used by Client in accessing the Software via the Internet. Client shall provide adequate industry "best practice" standards to ensure reasonable security for integration between applications at the Client site and Software hosted by UPsafety. Client shall provide accurate input information in the manner reasonably prescribed by UPsafety in connection with the Software and Services provided under these Terms and Conditions. Client shall advise UPsafety of any changes to Client's operations, banking relationships, Primary Contact, or other information that would require a change in the support, operation, or configuration of the hosted Software. Client shall configure necessary user accounts via the administrator account provided by UPsafety. Client shall be responsible for ensuring that any Client Content is accurate, not corrupt in any way, and does not contain any viruses.

12. Intellectual Property Rights

Client agrees that the Software, User Documentation and Services are proprietary products and services and that all right, title and interest in and to the Software, User Documentation and Services, including all associated intellectual property and other proprietary rights, are and shall at all times remain with UPsafety and its third party licensors. The Software contains trade secret and proprietary information owned by UPsafety or its third party licensors and is protected by United States copyright laws and international trade provisions and other applicable law. Client must treat the Software like any other copyrighted material and Client may not copy or distribute the Software or the User Documentation, electronically or otherwise, for any purpose. Client hereby grants to UPsafety a nonexclusive right to use all Client Content for the purposes of providing the Software and Services to Client and its authorized users pursuant to these Terms and Conditions. Client represents and warrants that the Client Content does not infringe or violate the intellectual property, proprietary or personal rights of any third party and Client has the right to grant UPsafety the right to use the Client Content as set forth herein.

13. Other Restrictions

Use of the Software and Services is restricted to use by the specific licensing entity only, and only for Client's internal business purposes. Client may not use the Software or Services for the benefit of any third parties or provide service bureau or other access or use of the Software or Services to third parties. Client may not, directly or indirectly, sublicense, assign, transfer, sell, rent, lend, lease or otherwise provide the Software, Services (or any portion thereof, including without limitation any capacity) or the User Documentation, or any portions thereof, to any third party, and any attempt to do so is null and void and shall be deemed a material breach of these Terms and Conditions. Client may not reverse engineer, disassemble, decompile or make any attempt to ascertain, derive or obtain the source code for the Software. Client shall not use the Software for any commercial purpose beyond the functionality for which the Software is intended. Client hereby agrees, represents and warrants to UPsafety that Client will not access or use the Software or the Web Sites for any purpose that is unlawful or prohibited by these Terms and Conditions. Client will not use the Software, Services or UPsafety ToCite, CityCite, CodeCite and ForCite Cloud product to take any actions that (i) infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (ii) violate any applicable law, statute, ordinance or regulation (including those regarding export control); (iii) are defamatory, trade libelous, threatening, harassing, or obscene; (iv) constitute unauthorized entry to any machine accessible via the network; (v) create or build any derivative works from any information, content, software, products or services obtained from or otherwise connected to UPsafety's Software or Web Sites, including appending such information or content to Client's internal database for distribution to multiple nonprofits as a donor database product or service; or (vi) distribute, transfer or resell the results of Client's use of the Software, Services or Web Sites. Client shall not interfere with or disrupt network users, services or equipment with the intent to cause an excessive or disproportionate load on UPsafety's or its suppliers' infrastructure

by means of (but not limited to) distribution of unsolicited bulk emails or chain letters, viruses, Trojan horses, worms, or other similar harmful or deleterious programming routines. Client further agrees to cooperate with UPSafety in causing any unauthorized use (including but not limited to co-branding, framing or hyper-linking) to immediately cease.

14. Location, Audio, Image and Video Services

Client acknowledges and consents to the automated and manual creation and/or collection of Location-Based, Audio, Image, and/or Video Services information in the Software and/or Device through interaction between the Devices where the Software is installed, UPSafety's servers, and third party applications and systems. UPSafety will use commercially reasonable efforts to ensure the accuracy of Location-Based, Audio, Image, and/or Video Services; however, UPSafety assumes no liability or responsibility in the event of inaccuracies in such information. While UPSafety uses commercially reasonable efforts to safeguard such information, UPSafety assumes no liability or responsibility for losses resulting from illegal or fraudulent access to Location-Based, Audio, Image, and/or Video Services related information. UPSafety also reserves the right to make such information available to auditors, police and other governmental agencies as permitted or required by law.

15. Software Modifications

Client shall not make any modifications to the Software. Any modifications that Client makes to the Software will void any warranty obligations contained in these Terms and Conditions.

16. Limitation of Liability

UPSAFETY'S MAXIMUM LIABILITY FOR ANY ACTION ARISING UNDER THESE TERMS AND CONDITIONS, REGARDLESS OF THE FORM OF ACTION AND WHETHER IN TORT, CONTRACT OR OTHER FORM OF LIABILITY, SHALL IN NO EVENT EXCEED THE FEES PAID BY CLIENT DURING THE TWO-YEAR PERIOD PRECEDING NOTICE TO UPSAFETY OF CLIENT'S LOSS. IN NO EVENT SHALL UPSAFETY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST DATA, LOST PROFITS, OPPORTUNITIES OR CONTRIBUTIONS, LOSS OF USE, GOOD WILL, BUSINESS INTERRUPTION, COST OF COVER, OR OTHER PECUNIARY OR NON- PECUNIARY LOSS, HOWEVER ARISING, EVEN IF UPSAFETY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UPSAFETY SHALL HAVE NO LIABILITY OR RESPONSIBILITY IN THE EVENT OF ANY LOSS OR INTERRUPTION IN SOFTWARE ACCESS DUE TO CAUSES BEYOND ITS REASONABLE CONTROL OR FORESEEABILITY, SUCH AS LOSS, INTERRUPTION OR FAILURE OF TELECOMMUNICATIONS OR DIGITAL TRANSMISSIONS AND LINKS, INTERNET SLOWDOWN OR FAILURES. THE PARTIES AGREE TO THE ALLOCATION OF RISK SET FORTH HEREIN. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

17. Independent Contractor

UPSAFETY IS AN INDEPENDENT CONTRACTOR AND NOT AN AGENT OR EMPLOYEE OF CLIENT. NO AGENCY, PARTNERSHIP, FRANCHISE, JOINT VENTURE, OR EMPLOYMENT RELATIONSHIP EXISTS BETWEEN UPSAFETY AND CLIENT. UPSAFETY'S EMPLOYEES AND AGENTS WILL NOT BE EMPLOYEES OR AGENTS OF CLIENT. UPSAFETY SHALL BE FULLY AND SOLELY RESPONSIBLE FOR THE SUPERVISION, CONTROL, PERFORMANCE, COMPENSATION, BENEFITS (INCLUDING, WITHOUT LIMITATION, ALL FORMS OF INSURANCE) WITHHOLDINGS, HEALTH AND SAFETY OF ALL OF ITS EMPLOYEES AND AGENTS. CLIENT WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY WITHHOLDING TAXES OR CONTRIBUTIONS TO STATE WORKER'S COMPENSATION, UNEMPLOYMENT OR OTHER FUNDS OR PROGRAMS.

18. Notices

All notices, consents and communications required hereunder shall be given in writing and delivered by electronic mail or mail, shall be deemed to be given upon receipt thereof and shall be sent to address below:

If to UPsafety:

United Public Safety, Inc.
321 Morris Road
Fort Washington, PA, 19034

EMAIL: legal@upsafety.net

If to Client:

The City of Clearwater
Attn: Steve Reiter, Parking Manager
100 S. Myrtle Avenue
Clearwater, FL 33756

EMAIL: steve.reiter@myclearwater.com

19. Compliance with Applicable Law

ALL WORK PERFORMED BY UPSAFETY SHALL BE IN CONFORMANCE WITH PERTINENT OSHA, LOCAL, STATE AND FEDERAL GOVERNMENT LAWS, RULES AND REGULATIONS. UPSAFETY FURTHER COVENANTS AND AGREES THAT ALL WORK PERFORMED AND FURNISHED HEREUNDER SHALL BE IN ACCORDANCE WITH APPLICABLE PROFESSIONAL STANDARDS.

20. Warranties

Mutual Warranties. Each party warrants that (i) it has the right and power to enter into these Terms and Conditions, and (ii) it will comply with all applicable laws and regulations pertaining to these Terms and Conditions.

UPsafety Limited Warranty. UPsafety warrants that the Services will be performed in a professional and workmanlike manner in accordance with recognized industry standards and other specifications as outlined in the CONTRACT.

Exclusive Remedies. Beyond provisions for liquidated damages in the CONTRACT, if, during the Warranty Period the Software fails to comply with the Software Warranty set forth above, UPsafety's entire liability and Client's exclusive remedy beyond these damages will be either to a) repair or replacement of the Software, or b) if in UPsafety's opinion such repair or replacement is not possible, termination of the SaaS Term and a refund of the Subscription Fees paid for the Software. This limited warranty is void if failure of the Software has resulted from accident, abuse, misuse or negligence of any kind in the use, handling or operation of the Software, including any use not consistent with the User Documentation or UPsafety training. UPsafety's entire liability and Client's exclusive remedy for any breach of warranty with respect to the Services as described above shall be UPsafety re-performing the Services performed.

Disclaimers. Any written or oral information or representations provided by UPsafety agents, employees, resellers, consultants or service clients with respect to the use or operation of the Software will in no way increase the scope of UPsafety's warranty. UPsafety and its suppliers exercise no control whatsoever over the content of the information passing through their systems. Client and users must exercise their own due diligence before distributing and/or relying on information available on the Internet, and must determine that they have all necessary rights to copy, publish, or otherwise distribute such information under copyright and other applicable laws. Neither UPsafety nor its suppliers will be liable for

any consequences of providing services, including those suffered as a result of delivering or accessing information or content, such as accessing information with offensive, inaccurate or inappropriate content, the possibility of Contracting computer viruses, or unauthorized access to or alteration, theft, or destruction of any data, files, programs, procedures, or information through accident, fraudulent means or devices, or any other method.

UPSAFETY DOES NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS OBTAINED BY CLIENT IN USING THE SOFTWARE OR THE SERVICES, OR THAT THE SOFTWARE OR THE SERVICES WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. EXCEPT FOR THE WARRANTIES SET FORTH ABOVE AND IN THE CONTRACT, UPSAFETY EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY (BY ANY TERRITORY OR JURISDICTION) TO THE EXTENT PERMITTED BY LAW. FURTHER, UPSAFETY EXPRESSLY EXCLUDES ANY WARRANTY OF NONINFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY TO THE EXTENT PERMITTED BY LAW

21. Public Records.

22. All records made pursuant to this Agreement, as well as negotiations conducted prior to its execution, shall be handled in compliance with Chapters 119 and 286 of the Florida Statutes unless an exemption applies. The Client gives no assurance as to the confidentiality of any portion of any proposal or record once submitted. Indemnity

Subject to Florida Statute 762.28, UPSafety and its members agree to indemnify and hold free and harmless, assume legal liability for and defend the Client, and its officers, employees, agents, and servants, whether they are current or former, from and against any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, in law or in equity, including but not limited to attorney's fees at trial and appellate levels, reasonable investigative and discovery costs, court costs, or claims for bodily injury or death of persons and for loss of or damage to property, except as provided for herein, or every kind and nature whatsoever, which in any manner directly or indirectly may arise or be alleged to have arisen, from the goods and services the Client has contracted for. Nothing contained herein is intended to serve as a waiver by the Client of its sovereign immunity, to extend the liability of the Client beyond the limits set forth in Section 762.28, Florida Statutes, or be construed as consent by the Client to the sued by third parties.

23. Right to Work Product

Any invention, discovery, creation, expression or other result of UPSafety's Services, such as findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, programs, tools, applications, interfaces, enhancements, software, and other technical information (collectively "Work Product"), created by UPSafety in the course of performing the Services hereunder are the property of UPSafety and are licensed to Client, without further license fees, pursuant to the license in these Terms and Conditions, provided, however, Work Product does not include, and Client shall retain title to (i) Confidential Information of Client, and (ii) all Client Content. Client shall have no right to sublicense, transfer, assign, convey or permit any third party to use or copy any Work Product.

24. Force Majeure

Except for Client's obligation to pay UPSafety, neither party shall be liable for any failure to perform its obligations under these Terms and Conditions if prevented from doing so by a cause or causes beyond its control, including without limitation, acts of God or public enemy, failure of suppliers to perform, fire, floods, storms, epidemic or quarantine restrictions, earthquakes, riots or civil commotion, strikes, war, and restraints of government, freight or other embargoes, weather conditions or any failures by UPSafety's subcontractors or suppliers.

25. Assignment

United Public Safety, Inc. 321 Morris Road, Fort Washington, PA, 19034

Neither these Terms and Conditions nor the CONTRACT shall be assigned by Client without the prior written consent of UPsafety. Any attempted assignment in violation of this provision shall be null and void. Subject to the foregoing, these Terms and Conditions are binding upon, inure to the benefit of, and are enforceable by the parties hereto and their respective successors and assigns.

26. Choice of Law and Venue

This Agreement shall be construed according to the laws of the State of Florida. Jurisdiction and venue for any legal action in connection herewith, whether sounding in contract or tort, shall lie in Pinellas County, Florida.

27. Miscellaneous

Except as otherwise specifically stated herein, remedies shall be cumulative and there shall be no obligation to exercise a particular remedy. If any provision of these Terms and Conditions are held to be unenforceable, the other provisions shall nevertheless remain in full force and effect. The failure by either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach of these Terms and Conditions will not be deemed a waiver by that party as to the subsequent enforcement of rights or subsequent actions in the event of future breaches. These Terms and Conditions and the CONTRACT together set forth the entire agreement between the parties with respect to the subject matter hereof and all other agreements, representations, communications and understandings, both oral and written, are superseded hereby.