

## MEMORANDUM

**TO:** MAYOR AND CITY COMMISSION

**FROM:** CITY ATTORNEY'S OFFICE

**DATE:** October 2, 2023

**RE:** **Third Amendment to Professional Services Agreement with American Traffic Solutions, Inc. d/b/a Verra Mobility for the Provision of Red Light Cameras and Citation Processing Services**

Attached for your consideration is a Third Amendment to the Professional Services Agreement with American Traffic Solutions, Inc. d/b/a Verra Mobility (Verra), the City's red light camera vendor. There are currently eighteen (18) red light cameras located at eleven (11) intersections operating within the City limits. This Third Amendment with Verra seeks to extend the term of the City's contract with Verra, relocate one of the red light cameras to a new location, upgrade two (2) existing legacy camera systems and add a new red light camera location. In addition, Verra will also provide the City with Automatic License Plate Reader cameras through its subcontractor, Flock Group, Inc. (Flock), for use by the Lakeland Police Department (LPD) to leverage technology to assist in deterring and reducing crime throughout the City.

The existing Agreement with Verra is scheduled to expire in January 2024. Pursuant to this Third Amendment, the term of the Agreement will be extended for a period of five (5) years, with a retroactive effective date of October 1, 2023, upon City Commission approval. The Agreement may be extended for two (2) additional consecutive two (2) year terms upon mutual written agreement of the parties.

This Third Amendment also seeks to relocate the red light camera located at the intersection of Beacon Rd. and northbound S. Florida Ave. This red light camera needs to be moved since an upgraded camera with newer technology cannot properly be located due to the building location on the property being so close to the road and driveways. Accordingly, City staff is recommending relocating that red light camera to the intersection of Kathleen Rd. and the westbound approach of George Jenkins Blvd. based on traffic crash data provided by City Traffic Operations. Verra will provide the City with technology upgrades for two (2) of the City's legacy camera systems, one of which will be the camera being relocated from Beacon R. and S. Florida Ave., as well as the new red light camera location. City staff is also recommending the installation of a new camera location at N. Florida Ave. and the southbound approach of E. Parker St. based on traffic crash data provided by City Traffic Operations.

The monthly service fee per camera system for fourteen (14) of the existing installed red light cameras, including the two (2) upgraded systems, as well as the new red light camera location, will be maintained at the current rate of \$4,250 per camera, per month. Verra has also agreed to continue to provide a discounted fee for the remaining four (4) red light cameras which is \$2,375 per camera, per month. With the exception of the one (1) new red light camera location at N. Florida Ave. and E. Parker St., there is no additional cost increase during the new additional five (5) year term of the Agreement for the cameras. This Third Amendment also continues to provide that the City has no obligation to pay Verra any fees in excess of the revenue collected by the Red Light Program.

Pursuant to this Third Amendment, City staff is also recommending the purchase of Automatic License Plate Reader (ALPR) cameras through Verra's subcontractor, Flock, to assist LPD in deterring and reducing crime throughout the City. The fee for the ALPR cameras is \$250 per camera, per month. There is also an additional one-time \$350 per ALPR camera (\$6,650 total for 19 cameras) installation cost for the pole, design, construction, permitting, electrical conduit, electrical connections and professional installation services. LPD is requesting nineteen (19) ALPR cameras for a total yearly cost of \$57,000 or \$285,000 over the five (5) year term of the Agreement. The cost for the ALPR cameras pursuant to this Amendment will be funded from the revenue generated by the City's Red Light Camera Program. Except as set forth in this Third Amendment all other terms and conditions of the Agreement shall remain in full force and effect.

It is recommended that the City Commission approve the attached Third Amendment to the Professional Services Agreement with Verra and the staff recommendations for the red light camera locations and authorize the appropriate City officials to execute the Amendment as well as all corresponding documents.

Attachment

## **THIRD AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**

This Third Amendment ("Third Amendment") is dated this 2<sup>nd</sup> day of October, 2023 and is entered into between American Traffic Solutions, Inc., doing business as Verra Mobility ("Verra Mobility"), a corporation duly registered under the laws of the State of Kansas, with its principal place of business at 1150 N. Alma School Road, Mesa, Arizona 85201, and the City of Lakeland, Florida ("City"), a municipal corporation of the State of Florida (each individually a "Party" and collectively the "Parties").

### **RECITALS**

WHEREAS, on November 28, 2012, the City and Verra Mobility entered into a Professional Services Agreement (the "Agreement"); and

WHEREAS, on August 5, 2013 the Parties executed a First Amendment to the Agreement; and

WHEREAS, on March 29, 2018 the Parties executed a Second Amendment to the Agreement; and

WHEREAS, Section 15 of the Agreement provides the Parties may extend terms or modify conditions, including scope of services, of the Agreement by duly executed written amendments; and

WHEREAS, the Parties desire to extend the term of the Agreement and modify certain conditions, including the scope of services, including Exhibits thereto, and fees for said services, in the Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Verra Mobility agree as follows:

### **TERMS AND CONDITIONS**

1. **Term.** The City and Verra Mobility hereby agree to extend the term of the Agreement for five (5) years commencing October 1, 2023 ("Effective Date"). The term of the Agreement may be extended for two (2) additional consecutive two (2) year terms thereafter ("Renewal Terms") by mutual written consent of the parties, provided any such Renewal Term(s) are exercised at least one hundred twenty (120) days prior to the expiration of the then current term. Verra Mobility will notify City, in writing, one hundred fifty (150) days prior to the expiration of the then current term to indicate Verra Mobility's intent to renew the Agreement.
2. **Two (2) Legacy Camera System Upgrades and one (1) Camera System Relocation.** No later than sixty (60) days after the Effective Date of this Third Amendment, Verra Mobility and City will mutually agree on the two (2) currently installed legacy Camera Systems that will be upgraded to Verra Mobility's newest Camera System and Verra Mobility will relocate one (1) currently installed legacy Camera System upon the direction of the City. Verra Mobility agrees to perform the aforementioned upgrades and relocation at its own cost. City understands the upgrades and relocation are contingent on all permits and approvals being issued by the appropriate agency and on a construction feasibility analysis, including the availability of power at no additional cost to Verra Mobility. City will assist Verra Mobility with obtaining all necessary permits, approvals and power. All upgrades and relocations shall be mutually agreed to in writing through a Notice to Proceed in substantially the same form as that found in Exhibit E of this Third Amendment.

3. **Service Fee Schedule.** Pursuant to the previously amended Exhibit A “Service Fee Schedule” of the Agreement, Verra Mobility agrees to keep its monthly Service Fee per Camera System per month at \$4,250 for all fourteen (14) currently installed Camera Systems, including the two (2) of the fourteen (14) currently installed Camera Systems that will be upgraded and any expansion Camera Systems. The monthly Service Fee for the four (4) Camera Systems currently receiving a discounted fee of \$2,375 per Camera System per month shall remain the same and unchanged. All other fees, including the certified mail processing surcharge shall remain the same and unchanged.
4. **ALPR Cameras.** Pursuant to terms and conditions found in Exhibit F “ALPR CAMERAS” of this Third Amendment, which is fully incorporated into this Agreement, Verra Mobility, through its subcontractor Flock Group, Inc. (“Flock”), shall provide the City solar-powered ALPR Cameras at the following monthly fee:

\$250 fee per ALPR Camera per month
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The Monthly fee includes ALPR Camera, Mounting Hardware, SIM Card, Cellular Service, Battery, Solar Panel, Unlimited Backoffice Users, Maintenance, and Warranty. The monthly fee excludes a \$350 one-time, per ALPR camera, cost for 12’ Flock pole, and any costs for design, construction, permitting, electrical conduit, electrician services, electrical connections, bucket truck rental, professional installation services, and applicable taxes.

The number of ALPR Cameras provided shall be mutually agreed to in writing through a Notice to Proceed in substantially the same form as that found in Exhibit F-1 of this Third Amendment. Verra Mobility is only providing the ALPR Cameras “as is” and is not responsible for providing the Flock back-office subscription to the City, which City has already procured directly from Flock. City grants Verra Mobility, as a third party beneficiary, the ability to enforce the provisions of the End User License Agreement (EULA) dated May 19, 2021 by and between City and Flock as provided in Exhibit “F-2” of this Third Amendment. The following is added as Section 22 to the Agreement, including Exhibit G “Retention Schedule”, as found in this Third Amendment:

**22. DATA RETENTION:**

Subject to litigation holds, court orders, changes in Law, or other legal requirements applicable to Verra Mobility, Verra Mobility shall maintain the categories of data set forth under the heading “Type of Record” for the periods of time set forth under the heading “Minimum Verra Mobility Retention Period” on Exhibit G during the term of this Agreement. City represents and warrants to Verra Mobility that the data retention schedule provided by City complies with the applicable State of Florida General Records Schedule GS1-SL for State and Local Government Agencies as may be amended from time to time. Within one hundred-twenty (120) days of the later of the termination of this Agreement or the termination of any wind-down period, Verra Mobility shall at its option either (i) place the Violation Images, Non-Violation Images, Individually Identifiable Violation Records, and Individually Identifiable Non-Violation Records (each as described on Exhibit G), not previously disposed of in accordance with the data retention schedule at a secured location with SFTP access or (ii) provide City with a hard-drive containing the Violation Images, Non-Violation Images, Individually Identifiable Violation Records, and Individually Identifiable Non-Violation Records, where City shall have ninety (90) days to retrieve and validate the information. After ninety (90) days, Verra Mobility shall delete all data from the SFTP location (if applicable) and shall have no further data retention obligations to City with respect to such data. City acknowledges that DMV data source providers may require City to enter into licensing agreements with the DMV data source providers in order for City

to have continued access to certain registered owner information after the termination of this Agreement.

6. The provisions of the Agreement, as amended by this Third Amendment, including the recitals, comprise all of the terms, conditions, agreements, and representations of the Parties with respect to the subject matter hereof. Except as expressly amended or modified by the terms of this Third Amendment, all terms of the Agreement shall remain in full force and effect. In the event of a conflict between the terms of this Third Amendment and the Agreement, the terms of this Third Amendment shall prevail and control.

7. This Third Amendment may be executed in one or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. Each Party represents and warrants that the representative signing this Third Amendment on its behalf has all right and authority to bind and commit that Party to the terms and conditions of this Third Amendment.

IN WITNESS WHEREOF, the Parties hereto have executed this Third Amendment.

**CITY OF LAKELAND, FLORIDA**

**AMERICAN TRAFFIC SOLUTIONS, INC.  
d/b/a VERRA MOBILITY**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name/Title: H. William Mutz, Mayor

Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

Kelly S. Koos, City Clerk

Approved as to form and correctness:

By: \_\_\_\_\_

Palmer C. Davis, City Attorney



**EXHIBIT F**  
**ALPR CAMERAS**

**1. AUTOMATIC LICENSE PLATE RECOGNITION SOLUTION**

1.1 Definitions.

**“ALPR”**: Automatic License Plate Recognition.

**“ALPR Camera”**: a solar-powered camera with automatic license plate recognition technology and required processors and, if requested, installation of a pole to mount the ALPR Camera.

**“ALPR Data”**: Data captured and processed by ALPR Equipment, which may include but is not limited to video data, image data, and metadata.

**“ALPR Equipment”**: A solar-powered ALPR Camera and related processor, excluding communication devices (e.g., SIM card) which is the responsibility of the City, and a pole provided by Flock.

**“City Data”**: The data captured by the ALPR Camera and processed in, and /or housed in the City’s Flock back-end system, including, but not limited, to ALPR capture data, white-lists, hotlists, data sharing alerts, and registered owner information.

**“EULA”**: The End User License Agreement between City and Flock, the provider of the ALPR Equipment and back-office system, to be provided, or in the case of the back-office system already provided, by Flock.

- 1.2 Verra Mobility, including through the engagement of Flock, agrees to provide the City with an ALPR Camera, subject to the City providing Verra Mobility a signed Notice to Proceed, as provided in Exhibit F-1 of this Agreement and the payment of the Fees set forth in Section 4 of the Third Amendment to the Agreement.
- 1.3 City agrees, at all times during the term of this Agreement, to comply with and be bound by the terms and conditions of the EULA to be entered into by the City with Flock in the form provided in Exhibit F-2 of this Agreement. City agrees that Verra Mobility is a third-party beneficiary of the EULA and may enforce the rights of Flock under the EULA.
- 1.4 City will comply with all applicable Laws, including without limitation to the extent applicable Criminal Justice Information Services (CJIS) requirements, any Laws relating to data privacy, or any Laws applicable its conduct with respect to the Program.
- 1.5 City shall not: (a) decompile, disassemble, or otherwise reverse engineer the ALPR Camera or the Flock back-end system or attempt to reconstruct or discover any source code, underlying algorithms, file formats or programming interfaces of the Flock back-end system by any means whatsoever (except and only to the extent that applicable Law prohibits or restricts reverse engineering restrictions); (b) remove any product identification, proprietary, copyright or other notices contained in the ALPR Camera or the Flock back-end system; or (c) modify any part of the ALPR Camera or the Flock back-end system, create a derivative work of any part of the ALPR Camera or the Flock back-end system, or incorporate any part of the ALPR Camera or the Flock back-end system into or with other software, except to the extent expressly authorized in writing by Verra Mobility, including through other agreements between the parties.

- 1.6 City shall provide Verra Mobility with copies of any City policies pertaining to its use of the ALPR Camera or the Flock back-end system, which are applicable to Verra Mobility. Verra Mobility shall be afforded a reasonable opportunity to review such policies and will notify City, in writing, if there are any additional Fees associated with compliance to the policies.
- 1.7 Verra Mobility will collaborate with City on a mutually agreeable project schedule outlining all of the milestones required to implement the procurement and installation of the ALPR Cameras.
- 1.8 Within ninety (90) days after a permit is obtained, or if no permit is required, within one hundred twenty (120) days of the date the City provides Verra Mobility a Notice to Proceed, Verra Mobility shall provide and, if required, Verra Mobility, or its subcontractor Flock, will install the ALPR Cameras at locations mutually agreed to by the City and Verra Mobility.
- 1.9 If installation is not performed on a Flock provided pole, City may use preexisting City infrastructure. Any new infrastructure constructed, other than installation of the Flock provided pole, shall be at the sole cost, and the sole property and responsibility, of the City.
- 1.10 City is responsible for obtaining any permits required for the installation and use of the ALPR Cameras on a Flock provided pole.
- 1.11 For ALPR Cameras to be installed on City infrastructure, City is responsible for applying for and obtaining and funding any and all needed state, local, and/or county permits, including any traffic control permits. City shall secure written permission for the installation of ALPR Equipment on any third-party infrastructure, and City is responsible for securing any interagency agreements or authorizations needed to install ALPR Equipment.
- 1.12 City shall be directly responsible for all costs and liabilities associated with construction, installation, except for the one-time installation of a pole provided by Flock, and any ongoing repair and maintenance of any infrastructure used for the ALPR Equipment, and the cost of all data hosting, data retrieval or data storage or for any other usage-based or storage based costs.
- 1.13 Notwithstanding anything else to the contrary in this Agreement, City agrees that City is solely responsible for the housing and security of the City Data. Verra Mobility shall have no liability with respect to the housing or security of data in the Flock back-end system and all rights and obligations regarding the City Data shall be solely between the City and Flock as provided in the EULA. City expressly acknowledges that Verra Mobility is under no obligation to retain for any period of time any data produced by the ALPR Cameras. City acknowledges that for the City Data, it is responsible for any preservation, and associated storage requirements that may be required by law. City agrees to assume responsibility to respond to, and if appropriate defend, at its sole expense, any requests for City Data obtained through the ALPR Cameras, whether by formal public records request or otherwise.
- 1.14 The City will provide the necessary City staff and resources to assist Verra Mobility and Flock with the installation of the ALPR Cameras and Flock and the City shall be solely responsible for the communications devices (e.g., SIM cards) for the ALPR Cameras and the integration of the installed ALPR Cameras with the Flock back-end system.
- 1.15 Any additional hardware, software, licensing, resources, installation, support and maintenance required to make the provided ALPR Cameras compatible and compliant with City IT, security, privacy, compliance, or other requirements are the responsibility of City.
- 1.16 City is responsible for the repair or replacement costs of any ALPR Equipment which is not the responsibility of Verra Mobility, as described below.



- 1.17 Verra Mobility shall repair or replace all ALPR Cameras pursuant to the Flock warranty (including components), except to the extent such damage was caused by the (a) improper handling or installation and repairs made by unauthorized Persons, including the City; (b) misuse, neglect, accident on behalf of the City (or Persons acting on its behalf other than a party authorized by Verra Mobility); (c) City's violation of any term of this Agreement or the EULA; or (d) City's intentional or negligent acts. For the avoidance of doubt, road construction is considered an intentional act.
- 1.18 Repair and replacement of infrastructure (including poles) will be the responsibility of the City.
- 1.19 City shall notify Verra Mobility, in writing, within twenty-four (24) hours of detecting any performance issues with any ALPR Cameras.
- 1.20 Any replacement of ALPR Equipment resulting from a knockdown, shall be at the option of Verra Mobility.
- 1.21 Upon the termination of the Agreement between Verra Mobility and the City, Verra Mobility shall have no further obligations to City regarding the ALPR Cameras, and Verra Mobility (or its designated subcontractor) may uninstall and/or retrieve all ALPR Equipment from City, unless such ALPR Equipment shall be separately procured by City.
- 1.22 Under all circumstances, Verra Mobility (or Flock) shall retain ownership of all ALPR Equipment provided for use by City under the terms and conditions of this Agreement. The right to access and use the Flock back-office shall be governed by the EULA. Verra Mobility shall retain the ownership rights to all metadata, business intelligence, or other analytics obtained, gathered, or mined by Verra Mobility from the data captured by the ALPR Cameras. Furthermore, Verra Mobility has the right to use non-personalized and aggregated ALPR Camera data for its internal business purposes, analytics, statistical analysis, and to perform analyses which would further City's program.
- 1.23 City hereby agrees to indemnify and defend Verra Mobility Parties to the fullest extent permitted by applicable Law against any and all Losses which may be imposed on or incurred by Verra Mobility arising out of or related to: (a) City's use of the ALPR Cameras; (b) City's misuse of or failure to maintain the security of City Data in its possession; (c) City's violation of any Laws; (d) City's misuse or misappropriation of a Verra Mobility subcontractor's products or services, (e) any representation by City about a Verra Mobility subcontractor's products or services not authorized by such subcontractor; (f) any breach of this Agreement by City related to City's negligent use of the ALPR Cameras or City Data; and (g) any breach of the EULA by City. The City's indemnification obligation set forth herein is subject to the limitations set forth in Florida Statute §768.28 and any other sovereign immunity defense available to the City pursuant to Florida law.

EXCEPT AS PROVIDED IN THIS AGREEMENT, THE PARTIES ACKNOWLEDGE THAT THE ALPR EQUIPMENT AND RELATED SERVICES ARE PROVIDED BY VERRA MOBILITY "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND VERRA MOBILITY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES RELATING TO THE ALPR EQUIPMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES AGAINST INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.



**EXHIBIT "F-2"**

**Flock End User License Agreement**



**FLOCK GROUP INC.  
SERVICES AGREEMENT  
ORDER FORM**

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. ("Flock") and the customer identified below ("Customer") (each of Flock and Customer, a "Party"). This order form ("Order Form") hereby incorporates and includes the "GOVERNMENT AGENCY CUSTOMER AGREEMENT" attached (the "Terms") which describe and set forth the general legal terms governing the relationship (collectively, the "Agreement"). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the "Effective Date").

Customer: Lakeland Police Department	Contact Name: Sgt Mike Lewis
Address: 219 N. Massachusetts Avenue Lakeland, FL 33801	Phone: 863-834-6017 E-Mail: mike.lewis@lakelandgov.net
Expected Payment Method: Check	Billing Contact: (if different than above)

Initial Term: 24 Renewal Term: 24 Months	Billing Term: Annual payment due Net 30 per terms and conditions
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Name	Price	QTY	Subtotal
<b>(Includes one-time fees)</b>			
Flock Falcon Camera	\$2,500.00	2	\$5,000.00
Implementation Fee (Public)	\$0.00	2	\$0.00

Year 1 Total **\$5,000.00**

Flock Group Inc.  
Today's Date - May 19, 2021

This proposal expires in 30 days.

Order Form  
FL - Lakeland Police  
Department

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# flock safety

Recurring Total: \$5,000

Special terms:

- none

**By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached.** The Parties have executed this Agreement as of the dates set forth below.

Flock Group Inc	Customer:
By: <i>Alex Latraverse</i> Name: Alex Latraverse Title: _ VP of Growth Date: 05/19/2021	By: <i>Ruben Garcia</i> Name: Ruben Garcia Title: _ Chief of Police Date: 05/22/2021

Flock Group Inc.  
Today's Date - May 19, 2021

This proposal expires in 30 days.

Order Form  
FL - Lakeland Police  
Department

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# flock safety

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**EXHIBIT A**

**Statement of Work**

Installation of (2) Flock Camera on existing pole or Flock-supplied pole if required

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Flock Group Inc.  
Today's Date - May 19, 2021

This proposal expires in 30 days.

Order Form  
FL - Lakland Police  
Department

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# flock safety

## GOVERNMENT AGENCY CUSTOMER AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block below (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

### RECITALS

**WHEREAS**, Flock offers a software and hardware solution for automatic license plate detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Service creates images and recordings of suspect vehicles (“**Footage**”) and can provide notifications to Agency upon the instructions of Non-Agency End User (“**Notifications**”);

**WHEREAS**, Agency desires to purchase, use and/or have installed access to the Flock Service in order to create, view, search and archive Footage and receive Notifications, including those from non-Agency users of the Flock System (where there is an investigative purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

**WHEREAS**, because Footage is stored for no longer than (thirty) 30 days in compliance with Flock’s records retention policy, Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

**WHEREAS**, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the purpose of crime awareness and prevention by police departments and archiving for evidence gathering (“**Purpose**”).

### AGREEMENT

**NOW, THEREFORE**, Flock and Agency agree as follows and further agree to incorporate the Recitals into this Agreement.

### 1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Authorized End User**” shall mean any individual employees, agents, or contractors of Agency accessing or using the Flock Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.2 “**Agency Data**” will mean the data, media and content provided by Agency through the Flock Services. For the avoidance of doubt, the Agency Data will include the Footage and geolocation information and environmental data collected by sensors built into the Units.

1.3 “**Documentation**” will mean text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Flock Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.4 “**Embedded Software**” will mean the software and/or firmware embedded or preinstalled on the Hardware.

1.5 “**Flock IP**” will mean the Flock Services, the Documentation, the Hardware, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

## flock safety

1.6 “**Footage**” means still images and/or video captured by the Hardware in the course of and provided via the Flock Services.

1.7 “**Hardware**” shall mean the Flock cameras and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services. The term “**Hardware**” excludes the Embedded Software.

1.8 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined in Section 1.9 below.

1.9 “**Installation Services**” means the services provided by Flock regarding the installation, placements and configuration of the Hardware, pursuant to the Statement of Work attached hereto.

1.10 “**Flock Services or Services**” means the provision, via the Web Interface, of Flock’s software application for automatic license plate detection, searching image records, and sharing Footage.

1.11 “**Non-Agency End User**” means a Flock’s non-Agency customer that has elected to give Agency access to its data in the Flock system.

1.12 “**Non-Agency End User Data**” means the Footage, geolocation data, environmental data and/or notifications of a Non-Agency End User.

1.13 “**Unit(s)**” shall mean the Hardware together with the Embedded Software.

1.14 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Flock Services and Hardware.

1.15 “**Support Services**” shall mean On-site Services and Monitoring Services, as defined in Section 2.9 below.

1.16 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Flock Services in accordance with the terms of this Agreement.

## 2. FLOCK SERVICES AND SUPPORT

2.1 **Provision of Access.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Service Term (as defined in Section 6.1) and No-Fee Term, solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account, and select a password and username (“**User ID**”). Flock will also provide Agency the Documentation to be used in accessing and using the Flock Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Flock Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, including without limitation using a third party to host the Web Interface which the Flock Services makes available to Agency and Authorized End Users. **WARRANTIES PROVIDED BY SUCH THIRD PARTIES, ARE THE AGENCY’S SOLE AND EXCLUSIVE REMEDY AND FLOCK’S SOLE AND EXCLUSIVE LIABILITY WITH REGARD TO SUCH THIRD-PARTY SERVICES, INCLUDING WITHOUT LIMITATION HOSTING THE WEB INTERFACE.** To the extent practicable, Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.



## flock safety

**2.2 Embedded Software License.** Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Hardware by Flock; in each case, solely as necessary for Agency to use the Flock Services.

**2.3 Documentation License.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Service Term in connection with its use of the Flock Services as contemplated herein, and under Section 2.4, below.

**2.4 Usage Restrictions.** The purpose for usage of the Hardware, Documentation, Services, support, and the Flock IP is solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency and not for tracking activities that the system is not designed to capture (“*Permitted Purpose*”). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP, or attempt to do any of the foregoing, and Agency acknowledges that nothing in this Agreement will be construed to grant Agency any right to obtain or use such source code; (iii) modify, alter, tamper with or repair any of the Flock IP, or create any derivative product from any of the foregoing, or attempt to do any of the foregoing, except with the prior written consent of Flock; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Flock Services or Flock IP; (vi) use the Services, support, Hardware, Documentation or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency’s rights under Sections 2.1, 2.2, or 2.3.

**2.5 Retained Rights; Ownership.** As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock’s sole discretion. There are no implied rights.

**2.6 Suspension.** Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency’s and any Authorized End User’s access to any portion or all of the Flock IP if (i) Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP; (b) Agency’s or any Authorized End User’s use of the Flock Service disrupts or poses a security risk to the Flock Service or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Flock’s provision of the Flock Services to Agency or any Authorized End User is prohibited by applicable law; (e) any vendor of Flock has suspended or terminated Flock’s access to or use of any third party services or products required to enable Agency to access the Flock IP; or (f) Agency has violated any term of this provision, including, but not limited to, utilizing the Flock Services for anything other than the Permitted Purpose (each such suspension, in accordance with this Section 2.6, a “*Service Suspension*”). Flock will make commercially reasonable efforts, circumstances permitting, to provide written notice of any Service Suspension to Agency (including notices sent to Flock’s registered email address) and to provide updates regarding resumption of access to the Flock IP following any Service Suspension. Flock will use commercially reasonable efforts to resume providing access to the Flock Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that Agency or any Authorized End User may incur as a result of a Service Suspension. To the extent that the Service Suspension is not caused by Agency’s direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of any suspension (for any continuous suspension lasting at least one full day).

### **2.7 Installation Services.**

**2.7.1 Designated Locations.** Prior to performing the physical installation of the Units, Flock shall advise Agency on the location and positioning of the Units for optimal license plate image capture, as conditions and location

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allow. Flock and Agency must mutually agree on the location (mounting site or pole), position and angle of the Units (each Unit location so designated by Agency, a “**Designated Location**”). Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency’s delay in identifying the choices for the Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready. Designated Locations that are suggested by Flock and accepted by Agency without alteration will be known as Flock Designated Locations. After a deployment plan with Designated Locations and equipment has been agreed upon by both Flock and the Agency, any subsequent changes to the deployment plan (“**Reinstalls**”) driven by Agency’s request will incur a charge for Flock’s then-current list price for Reinstalls, as listed in the then-current Reinstall Policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment charges. These changes include but are not limited to camera re-positioning, adjusting of camera mounting, re-angling, removing foliage, camera replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like.

**2.7.2 Agency’s Installation Obligations.** Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. The “**Agency Installation Obligations**” include, to the extent required by the deployment plan, but are not limited to electrical work to provide a reliable source of 120V AC power that follow Flock guidelines and comply with local regulations if adequate solar exposure is not available. Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process; (ii) any federal, state or local taxes including property, license, privilege, sales, use, excise, gross receipts or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Hardware, its use, or (iii) any other services performed in connection with installation of the Hardware. Flock will provide options to supply power at each Designated Location. If Agency refuses alternative power supply options, Agency agrees and understands that Agency will not be subject to any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar. Flock will make all reasonable efforts within their control to minimize suspension of Flock Services. Any fees payable to Flock exclude the foregoing. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has all necessary right title and authority and hereby authorizes Flock to install the Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

**2.7.3 Flock’s Installation Obligations.** The Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are selected by Agency. Following the initial installation of the Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, Flock will continue to monitor the performance of the Units for the length of the Term and will receive access to the Footage for a period of three (3) business days after the initial installation in order to monitor performance and provide any necessary maintenance solely as a measure of quality control. Agency can opt out of Flock’s access to Footage after the initial installation which would waive Flock’s responsibility to ensure such action was successful. Agency understands and agrees that the Flock Services will not function without the Hardware. Labor may be provided by Flock or a third party.

**2.7.4 Security Interest.** The Hardware shall remain the personal property of Flock and will be removed upon the termination or expiration of this Agreement. Agency agrees to perform all acts which may be necessary to assure the retention of title of the Hardware by Flock. Should Agency default in any payment for the Flock Services or any part thereof or offer to sell or auction the Hardware, then Agency authorizes and empowers Flock to remove the Hardware or any part thereof. Such removal, if made by Flock, shall not be deemed a waiver of Flock’s rights to any damages Flock may sustain as a result of Agency’s default and Flock shall have the right to enforce any other legal remedy or right.

**2.8 Hazardous Conditions.** Unless otherwise stated in the Agreement, Flock’s price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

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Any additional expenses incurred by Flock as a result of the discovery or presence of hazardous material or hazardous conditions shall be the responsibility of Agency and shall be paid promptly upon billing.

**2.9 Support Services.** Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations (“*Monitoring Services*”). Subject to the terms hereof, Flock will provide Agency with reasonable technical and on-site support and maintenance services (“*On-Site Services*”) in-person or by email at [hello@flocksafety.com](mailto:hello@flocksafety.com). Flock will use commercially reasonable efforts to respond to requests for support.

**2.10 Special Terms.** From time to time, Flock may offer certain “Special Terms” related to guarantees, service and support which are indicated in the proposal and on the order form and will become part of this Agreement. To the extent that any terms of this agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

**2.11 Changes to Platform.** Flock Safety may, in its sole discretion, make any changes to any system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock Safety’s products or services to its customers, (b) the competitive strength of, or market for, Flock Safety’s products or services, (c) such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law.

### 3. AGENCY RESTRICTIONS AND RESPONSIBILITIES

**3.1 Agency Obligations.** Upon creation of a User ID, Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person’s name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency will not share its account or password with anyone, and must protect the security of its account and password. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel, to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

**3.2 Agency Representations and Warranties.** Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content and retention thereof. To the extent allowed by the governing law of the state mentioned in Section 10.6, or if no state is mentioned in Section 10.6, by the law of the State of Georgia, Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses, including without limitation costs and attorneys’ fees, in connection with any claim or action that arises from an alleged violation of the foregoing, Agency’s Installation Obligations, or otherwise from Agency’s use of the Services, Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Agency’s use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

### 4. CONFIDENTIALITY; AGENCY DATA; NON-AGENCY DATA

**4.1 Confidentiality.** Each Party (the “*Receiving Party*”) understands that the other Party (the “*Disclosing Party*”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business

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(hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Flock is non-public information including but not limited to features, functionality, designs, user interfaces, trade secrets, intellectual property, business plans, marketing plans, works of authorship, hardware, customer lists and requirements, and performance of the Flock Services. Proprietary Information of Agency includes non-public Agency Data, Non-Agency End User Data, and data provided by Agency or a Non-Agency End User to Flock or collected by Flock via the Unit, including the Footage, to enable the provision of the Services. The Receiving Party shall not disclose, use, transmit, inform or make available to any entity, person or body any of the Proprietary Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Proprietary Information and the parties' respective rights therein, at all times exercising at least a reasonable level of care. Each party agrees to restrict access to the Proprietary Information of the other party to those employees or agents who require access in order to perform hereunder. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the party takes with its own proprietary information, but in no event will a party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency Notifications or alerts, such as when a car exits Agency's neighborhood, or to analyze the data collected to identify motion or other events.

The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by Receiving Party prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to Receiving Party without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party.

Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any subpoena, summons, judicial order or other judicial or governmental process, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to obtain a protective order or otherwise oppose the disclosure. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Having received notice prior to data being deleted, Flock may store Footage in order to comply with a valid court order but such retained Footage will not be retrievable without a valid court order.

**4.2 Agency and Non-Agency End User Data.** As between Flock and Agency, all right, title and interest in the Agency Data and Non-Agency End User Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to use the Agency Data and Non-Agency End User Data and perform all acts with respect to the Agency Data and Non-Agency End User Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.9 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify and distribute the Agency Data and Non-Agency End User Data as a part of the Aggregated Data (as defined in Section 4.4 below). As between Flock and Agency, Agency is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Agency Data and Non-Agency End User Data. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion.

**4.3 Feedback.** If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

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**4.4 Aggregated Data.** Notwithstanding anything in this Agreement to the contrary, Flock shall have the right to collect and analyze data that does not refer to or identify Agency or any individuals or de-identifies such data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Agency Data and data derived therefrom). For the sake of clarity, Aggregated Data is compiled anonymous data which has been stripped of any personal identifying information. Agency acknowledges that Flock will be compiling anonymized and/or aggregated data based on Agency Data and Non-Agency End User Data input into the Services (the “*Aggregated Data*”). Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the Service Term hereof) to (i) use and distribute such Aggregated Data to improve and enhance the Services and for other marketing, development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts, and (ii) disclose the Agency Data and Non-Agency End User Data (both inclusive of any Footage) to enable law enforcement monitoring against law enforcement hotlists as well as provide Footage search access to law enforcement for investigative purposes only. No rights or licenses are granted except as expressly set forth herein.

### 5. PAYMENT OF FEES

**5.1 Fees.** Agency will pay Flock the first Usage Fee, the Implementation Fee and any fee for Hardware (as described on the Order Form, together the “*Initial Fees*”) as set forth on the Order Form on or before the 7th day following the Effective Date of this Agreement. Flock is not obligated to commence the Installation Services unless and until the Initial Fees have been made and shall have no liability resulting from any delay related thereto. Agency shall pay the ongoing Usage Fees set forth on the Order Form with such Usage Fees due and payable thirty (30) days in advance of each payment period. All payments will be made by either ACH, check, or credit card. The first month of Flock Services corresponding to the first Usage Fee payment will begin upon the first installation of Hardware. For Agencies who purchase ten (10) or more Units, in the event that only a portion of the Units are installed at the first installation with additional Units to be installed at a later date, Usage Fees shall be calculated on a pro rata basis corresponding to the then-installed Units. Agencies will be invoiced for the additional Units immediately upon installation of the remaining Units.

**5.2 Changes to Fees.** Flock reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term or any Renewal Term, upon sixty (60) days’ notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email). Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (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 Flock’s customer support department. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

**5.3 Invoicing, Late Fees; Taxes.** Flock may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Flock thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection, and may result in immediate termination of Service. To the extent allowable by law or Agency regulations pertaining to tax-exempt entities, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock’s net income.

**5.4 No-Fee Term Access.** Subject to Flock’s record retention policy, Flock offers complimentary access to the Flock System for thirty (30) days (“*No Fee Term*”) to Agency when Non-Agency End Users intentionally prescribe access or judicial orders mandate access to Non-Agency End User Data. Agency agrees to pay the Initial Fees and Usage Fees according to Section 5.1 and will receive Flock’s complimentary access to the Flock Service and Footage for no additional cost. Should such access cause Flock to incur internal or out-of-pocket costs that are solely the result of the access, Flock reserves the right to invoice these costs to Agency under Section 5.3 and Agency agrees to pay them. The complimentary No-Fee Term access to Flock Services shall survive the expiration or

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termination of this Agreement for five (5) years unless Agency provides written notice of the intent to cancel access to Flock Services.

## 6. TERM AND TERMINATION

**6.1 Term.** Subject to earlier termination as provided below, the initial term of this Agreement shall be for the period of time set forth on the Order Form (the “*Initial Term*”). *Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms for the greater of one year and the length set forth on the Order Form* (each, a “*Renewal Term*”, and together with the Initial Term, the “*Service Term*”) *unless either party gives the other party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

**6.2 Agency Satisfaction Guarantee.** At any time during the agreed upon term, an Agency not fully satisfied with the service or solution may self-elect to terminate their contract. Self-elected termination will result in a one-time fee of actual cost of removal and labor, said cost not to exceed \$500 per camera. Upon self-elected termination, a refund will be provided, prorated for any fees paid for the remaining Term length set forth previously. Self-termination of the contract by the Agency will be effective immediately. Flock will remove all equipment at Flock’s own convenience, within a commercially reasonable period upon termination. Advance notice will be provided.

**6.3 Termination.** In the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement prior to the end of the Service Term by giving thirty (30) days prior written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching party has cured the breach prior to the expiration of such thirty-day period. Either party may terminate this Agreement, without notice, (i) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other party’s making an assignment for the benefit of creditors, or (iii) upon the other party’s dissolution or ceasing to do business. Upon termination for Flock’s material breach, Flock will refund to Agency a pro-rata portion of the pre-paid Fees for Services not received due to such termination.

**6.4 Effect of Termination.** Upon any termination of the Service Term, Flock will collect all Units, delete all Agency Data, terminate Agency’s right to access or use any Services, and all licenses granted by Flock hereunder will immediately cease. Agency shall ensure that Flock is granted access to collect all Units and shall ensure that Flock personnel does not encounter Hazardous Conditions in the collection of such units. Upon termination of this Agreement, Agency will immediately cease all use of Flock Services.

**6.5 No-Fee Term.** The initial No-Fee Term will extend, after entering into this Agreement, for thirty (30) days from the date a Non-Agency End User grants access to their Footage and/or Notifications. In expectation of repeated non-continuous No-Fee Terms, Flock may in its sole discretion leave access open for Agency’s Authorized End Users despite there not being any current Non-Agency End User authorizations. Such access and successive No-Fee Terms are deemed to be part of the No-Fee Term. Flock, in its sole discretion, can determine not to provide additional No-Fee Terms or can impose a price per No-Fee Term upon thirty (30) days’ notice. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon 30 days’ notice.

**6.6 Survival.** The following Sections will survive termination: 2.4, 2.5, 3, 4, 5 (with respect to any accrued rights to payment), 5.4, 6.5, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 10.5.

## 7. REMEDY; WARRANTY AND DISCLAIMER

**7.1 Remedy.** Upon a malfunction or failure of Hardware or Embedded Software (a “*Defect*”), Agency must first make commercially reasonable efforts to address the problem by contacting Flock’s technical support as described in Section 2.9 above. If such efforts do not correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Unit provided that such inspection and test shall occur within seventy-two (72) hours after Agency notifies the Flock of a Defect. In the event of a Defect, Flock will repair or replace the defective Unit at no

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additional cost. In the event that a Unit is lost, stolen, or damaged, Flock agrees to replace the Unit at a fee according to the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Units, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen units and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted.

**7.2 Exclusions.** Flock will not provide the remedy described in Section 7.1 above if any of the following exclusions apply: (a) misuse of the Hardware or Embedded Software in any manner, including operation of the Hardware or Embedded Software in any way that does not strictly comply with any applicable specifications, documentation, or other restrictions on use provided by Flock; (b) damage, alteration, or modification of the Hardware or Embedded Software in any way; or (c) combination of the Hardware or Embedded Software with software, hardware or other technology that was not expressly authorized by Flock.

**7.3 Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Upon completion of any installation or repair, Flock shall clean and leave the area in good condition. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

**7.4 Disclaimer.** THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE HARDWARE AND/OR EMBEDDED SOFTWARE. THE FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND INSTALLATION SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF GEORGIA.

**7.5 Insurance.** Flock and Agency will each maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of their business risk. Certificates of Insurance will be provided upon request.

**7.6 Force Majeure.** Flock Safety is not responsible nor liable for any delays or failures in performance from any cause beyond its control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, weather conditions or acts of hackers, internet service providers or any other third party or acts or omissions of Agency or any Authorized End User.

### 8. LIMITATION OF LIABILITY AND INDEMNITY

**8.1 Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF

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BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT OF AN EMERGENCY, AGENCY SHOULD CONTACT 911 AND SHOULD NOT RELY ON THE SERVICES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF GEORGIA.

**8.2 Additional No-Fee Term Requirements.** IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.5 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Except for Flock's willful acts, Agency agrees to pay for Flock's attorneys' fees to defend Flock for any alleged or actual claims arising out of or in any way related to the No-Fee Term.

**8.3 Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties. Agency will not pursue any claims or actions against Flock's suppliers.

**8.4 Indemnity.** Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of Section 3.2, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Hardware and any Software, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.2 or this Agreement.

### 9. RECORD RETENTION

**9.1 Data Preservation.** The Agency agrees to store Agency Data and Non-Agency End User Data in compliance with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules. As part of Agency's consideration for paid access and no-fee access to the Flock System, to the extent that Flock is required by local, state or federal law to store the Agency Data or the Non-Agency End User Data, Agency agrees to preserve and securely store this data on Flock's behalf so that Flock can delete the data from its servers and, should Flock be legally compelled by judicial or government order, Flock may retrieve the data from Agency upon demand.

### 10. MISCELLANEOUS

**10.1 Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.



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**10.2 Assignment.** This Agreement is not assignable, transferable or sublicensable by Agency except with Flock's prior written consent. Flock may transfer and assign any of its rights and obligations, in whole or in part, under this Agreement without consent.

**10.3 Entire Agreement.** This Agreement, together with the Order Form(s), the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>), and Deployment Plan(s), are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected.

**10.4 Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever.

**10.5 Costs and Attorneys' Fees.** In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

**10.6 Governing Law; Venue.** This Agreement shall be governed by the laws of the State of Georgia without regard to its conflict of laws provisions. To the extent that the arbitration language below does not apply, the federal and state courts sitting in the State of Georgia will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this Agreement. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement. Any dispute arising out of, in connection with, or in relation to this agreement or the making of validity thereof or its interpretation or any breach thereof shall be determined and settled by arbitration in Atlanta, Georgia by a sole arbitrator pursuant to the rules and regulations then obtaining of the American Arbitration Association and any award rendered therein shall be final and conclusive upon the parties, and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The service of any notice, process, motion or other document in connection with an arbitration award under this agreement or for the enforcement of an arbitration award hereunder may be effectuated by either personal service or by certified or registered mail to the respective addresses provided herein.

**10.7 Publicity.** Unless otherwise indicated on the Order Form, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

**10.8 Export.** Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Services, the Hardware, the Embedded Software and Documentation are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

**10.9 Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated Sections.

**10.10 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**10.11 Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the organizations and individuals they are representing.

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10.12 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

# Signature Certificate

Document Ref.: MFTCC-UY2BC-BANRS-PAYYX

Document signed by:

	<b>Alex Latraverse</b> Verified E-mail: lat@flocksafety.com	
		
	<b>Mike Lewis</b> Verified E-mail: mike.lewis@lakelandgov.net	
		

Document completed by all parties on:

22 May 2021 21:23:06 UTC

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Signed with PandaDoc.com

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## EXHIBIT G

### RETENTION SCHEDULE\*\*\*

*[This schedule to be completed by City in conformity with applicable State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, as may be amended from time to time, prior to execution of the Agreement.]*

<u>Type of Record</u>	<u>Minimum Verra Mobility Retention Period</u>
Violation Images* (including video clips and related metadata)	__ months from payment or final adjudication
Non-Violation Images (including video clips and related metadata)**	__ days from Event capture date
Individually Identifiable Violation Records*	__ months from payment or final adjudication
Individually Identifiable Non-Violation Records**	__ days from Event capture date
Audio recording from contact center	90 days from call
Written correspondence with citizens regarding Violations	1 year from date of correspondence
Camera System Calibration/Certification Records	__ months from payment or final adjudication of an applicable Violation
Maintenance Records	__ months from payment or final adjudication of an applicable Violation
Other Program Records	__ years from termination of the Agreement

\* Violation Image: an image of a Violation issued as a Citation.

Individually Identifiable Violation Records: a record containing individually identifiable information pertaining to a Violation issued as a Citation.

\*\* Non-Violation Image: an image of an Event not issued as a Citation.

Individually Identifiable Non-Violation Records: a record containing individually identifiable information pertaining to an Event not issued as a Citation.

\*\*\* Retention period is not applicable upon termination of the Agreement and the data is provided to City pursuant to Section 22 of the Agreement.

**This records retention schedule does not apply to any Event data captured by the Camera System, but not uploaded into Axis. For the avoidance of doubt, this records retention schedule does not apply to any records related to any ALPR Data.**