



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: CO - Arvada PD	Contact Name: Anthony Baros
Address: 8101 Ralston Rd Arvada, Colorado 80002	Phone: (720) 898-6836
	E-Mail: abaros@arvada.org
Expected Payment Method:	Billing Contact:
	(if different than above)

Initial Term: 12 Months Renewal Term: 12 Months	Pilot period: First 60 days of Initial Term; option to cancel contract at no cost. Initial Term invoice due after Pilot period. Billing Term: Annual payment due Net 30 per terms and conditions Billing Frequency: Invoice: 100% of Subtotal for Year 1 at last camera validation. Invoice shall not be due until Flock and Agency have determined the final number of cameras to be installed and the Pilot Period has concluded. Annual Recurring Total payment at annual subscription term date invoiced yearly for each renewal term after initial 12 months. Prior to the expiration of the Pilot Period, Agency shall confirm the final number of cameras it wishes to remain installed. Flock shall modify and invoice Agency for this final number of cameras at the price per camera initially quoted to Agency prior to April 1, 2023.
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Professional Services and One-Time Purchases

Name	Price/Usage Fee	QTY	Subtotal
Professional Services - Standard Implementation Fee	\$350.00	40.00	\$14,000.00

Hardware and Software Products

Annual recurring amounts over subscription term

Name	Price/Usage Fee	QTY	Subtotal
Falcon	\$2,500.00	40.00	\$100,000.00
Flock Safety Advanced Search	\$2,500.00	1.00	\$2,500.00

Subtotal Year 1:	\$116,500.00
Subscription Term:	12 Months
Annual Recurring Total:	\$102,500.00
Estimated Sales Tax:	\$0.00
Total Contract Amount:	\$116,500.00
	subject to appropriation and renewals

flock safety

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: <u>Mark Smith</u>	By: <u>Edward Brady</u>
Name: Mark Smith	Name: Edward Brady
Title: mark.smith@flocksafety.com	Title: Chief of Police
	Date: 03/29/2023
	ATTEST/WITNESS:
	<u>Kristen R. Rush</u>
	City Clerk
	APPROVED AS TO FORM:
	For Rachel A. Morris, City Attorney
Date: March 28, 2023	By: <u>Laura Hemler</u>





GOVERNMENT AGENCY 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 of the Order Form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, video, image, and recording data (“**Footage**”) and can provide notifications to Agency upon the instructions of Non-Agency End User (as defined below) (“**Notifications**”);

WHEREAS, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from Non-Agency End Users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, Flock deletes all Footage on a rolling thirty (30) day basis, excluding Wing Replay which is deleted after seven (7) days. 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 awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree that this Agreement, and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

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

1.0 “**Agency Data**” means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.1 “**Agency Generated Data**” means the messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, other information or materials posted, uploaded, displayed, published, distributed, transmitted, broadcasted, or otherwise made available on or submitted through the Wing Suite.

1.2 “**Agency Hardware**” means the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.3 . “**Aggregated Data**” means information that relates to a group or category of individuals, from which any potential individuals’ personal identifying information has been permanently “anonymized” by commercially available standards to irreversibly alter data in such a way that a data subject (i.e., individual person or impersonal entity) can no longer be identified directly or indirectly.



1.4 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

For clarity, day means calendar day unless expressly stated otherwise.

1.5 “**Deployment Plan**” means the strategic geographic mapping of the location(s) and implementation of Flock Hardware, and/or other relevant Services required under this Agreement.

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

1.7 “**Embedded Software**” means the software and/or firmware embedded or preinstalled on the Flock Hardware or Agency Hardware.

1.8 “**Falcon Flex**” means an infrastructure-free, location-flexible license plate reader camera that enables the Agency to self-install.

1.9 “**Flock Hardware**” means the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.10 “**Flock IP**” means the Services, the Documentation, 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.

1.11 “**Flock Safety Falcon™**” means an infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.12 “**Flock Safety Raven™**” means an audio detection device that provides real-time alerting to law enforcement based on programmed audio events such as gunshots, breaking glass, and street racing.

1.13 “**Flock Safety Sparrow™**” means an infrastructure-free license plate reader camera for residential roadways that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.14 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services.

1.15 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e. NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.16 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined in Section 1.19 below.

1.17 “**Installation Services**” means the services provided by Flock for installation of Agency Hardware and/or Flock Hardware, including any applicable installation of Embedded Software on Agency Hardware.

1.18 “**Non-Agency End User(s)**” means any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.



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

1.20 “**Support Services**” means Monitoring Services, as defined in Section 2.10 below.

1.21 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

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

1.23 “**Wing Suite**” means the Flock interface which provides real-time access to the Flock Services, location of Flock Hardware, Agency Hardware, third-party cameras, live-stream video, Wing Livestream, Wing LPR, Wing Replay, alerts and other integrations.

1.24 “**Wing Livestream**” means real-time video integration with third-party cameras via the Flock interface.

1.25 “**Wing LPR**” means software integration with third-party cameras utilizing Flock’s Vehicle Fingerprint Technology™ for license plate capture.

1.26 “**Wing Replay**” means enhanced situational awareness encompassing Footage retention, replay ability, and downloadable content from Hot Lists integrated from third-party cameras.

1.27 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

2. 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 Services via the Web Interface during the 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 and download 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 with the Documentation to be used in accessing and using the 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 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 Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage) which makes the Services available to Agency and Authorized End Users. Flock shall notify Agency in writing of any known changes to third party service providers that will affect Services. To the extent such policies and terms are consistent with this Agreement, 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.

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 Flock Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the 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 Term in connection with its use of the Services as contemplated herein, and under Section 2.5 below.

2.4 Wing Suite 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 Wing Suite software and interface.

2.5 Usage Restrictions.

2.5.1 Flock IP. The Permitted Purpose for usage of the Flock Hardware, Agency Hardware, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency. 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; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (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 Services or Flock IP; (vi) use the Services, support, Flock Hardware, Documentation, or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Agency's rights under Sections 2.1, 2.2, 2.3, or 2.4.

2.5.2. Flock Hardware. Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Except for Falcon Flex products, which are designed for self-installation, Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Should Agency do so under emergent circumstances, Agency shall provide Flock with prompt reasonable notice. Agency further acknowledges Flock will no longer warranty the removed or adjusted Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of the restricted actions of this Section 2.5.2, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

2.6 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.

2.7 Suspension.

2.7.1 Service 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 or Flock Service if Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP by Agency; (b) Agency's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP 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) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for anything other than the Permitted Purpose ("**Service Suspension**"). Agency shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit.

2.7.2 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("**Service Interruption**"). Flock will make commercially reasonable efforts to provide



written notice of any Service Interruption to Agency and to provide updates regarding resumption of access to Flock Services. Flock will use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Interruption 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 Interruption. To the extent that the Service Interruption 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 the Service Interruption (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency's account that have been impacted. For example, in the event of a Service Interruption lasting five (5) continuous days, Agency will receive a credit for five (5) free days at the end of the Term.

2.7.3 In addition to the terms of this Agreement, Flock shall provide all Services in accordance with the Information Security Addendum attached as **Exhibit A**.

2.8 Installation Services.

2.8.1 **Designated Locations.** For installation of Flock Hardware, excluding Falcon Flex products, prior to performing the physical installation of the Flock Hardware, Flock shall advise Agency on the location and positioning of the Flock Hardware for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Flock Hardware ("**Designated Location**") and collaborate with Agency to design the Deployment Plan confirming the Designated Locations. Flock shall have final discretion on location of Flock Hardware. 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 confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary. After installation, any subsequent changes to the Deployment Plan ("**Reinstalls**") 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 fees. For clarity, Agency will receive prior notice and provide approval for any such fees. These changes include but are not limited to re-positioning, adjusting of the mounting, re-angling, removing foliage, 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. Flock shall have full discretion on decision to reinstall Flock Hardware.

2.8.2 **Agency 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. Although Flock Hardware is designed to utilize solar power, certain Designated Locations may require a reliable source of 120V or 240V AC power. In the event adequate solar power is not available, Agency is solely responsible for costs associated with providing a reliable source of 120V or 240V AC power to Flock Hardware. Flock will provide solar options to supply power at each Designated Location. If Agency refuses recommended solar options, Agency waives any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar power. Additionally, Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process of installation of cameras or AC power; (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 Flock Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Flock Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment, or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency ("**Agency Installation Obligations**") prior to any installation work. In the event that a Designated Location for Flock Hardware requires permits, Flock may provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Flock Hardware from the temporary alternate location to the permitted location at no additional cost. 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, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to



install the Flock Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.8.3 Flock's Obligations. Installation of Flock 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 confirmed but no later than 6 months from the time that the Designated Locations are confirmed unless otherwise agreed upon by the Parties in writing. The Parties understand that all labor shall be performed in public areas unless expressly agreed upon by the Parties. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Following the initial installation of the Flock Hardware and any subsequent Reinstalls or maintenance operations, Flock's obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance of Flock Hardware for the length of the Term and will receive access to the Footage for a period of seven (7) business days after the initial installation for quality control and provide any necessary maintenance. Labor may be provided by Flock or a third-party. All subcontractors performing any work in accordance with this Agreement must comply with the terms of this Agreement. Flock is further responsible for all subcontractor performance. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware. Notwithstanding anything to the contrary, Agency understands that Flock will not provide installation services for Falcon Flex products.

2.8.4 Ownership of Hardware. Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Any damage to Agency's property caused by Flock's removal of Flock Hardware shall be timely repaired by Flock at Flock's expense. Agency shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Agency default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. 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.

2.9 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.

2.10 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**"). Flock will use commercially reasonable efforts to respond to requests for support. Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at support@flocksafety.com, at no additional cost. Flock will use commercially reasonable efforts to respond to requests for support from Agency within 48 hours of receiving the request, excluding weekends and federal holidays. Notwithstanding anything to the contrary, Agency is solely responsible for installation of Falcon Flex products. Agency further understands and agrees that Flock will not provide monitoring services or on-site services for Falcon Flex.

2.11 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, upon Agency's prior written consent. To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.12 Upgrades to Platform. Flock may, in its sole discretion, make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock's products or services to its agencies, (b) the competitive strength of, or market for, Flock's products or services, (c) such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not materially change any terms or conditions within this Agreement.



3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Flock will assist Agency Authorized End Users in the 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. Unless otherwise stated and defined in this Agreement, Agency may not designate Authorized End Users for persons who are not officers, employees, or agents of Agency. Authorized End Users shall only use Agency-issued email addresses for the creation of their User ID. 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. 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. Flock similarly represents, covenants, and warrants that it will provide the Services and carry out any responsibilities under this Agreement in compliance with this Agreement and all applicable laws and regulations.

4. CONFIDENTIALITY; AGENCY DATA

4.1 Confidentiality. To the extent allowable by applicable FOIA and state-specific Public Records Acts, 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 (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Flock Hardware or Agency Hardware, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors. 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 alerts, 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 it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it 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 judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. For clarity, upon notice to the other party, Flock or Agency 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 or Agency 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 or Agency, its users, a third Party, or the public as required or permitted by law, including respond to an emergency situation. Flock may



store deleted Footage in order to comply with certain legal obligations, but such retained Footage will not be retrievable without a valid court order.

4.2 Agency Data. As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to (i) use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.10 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Data as a part of the Aggregated Data, (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring for elected law enforcement Hotlists as well as provide Footage search access to law enforcement for investigative purposes only, and (iii) and obtain Aggregated Data as set forth below in Section 4.4. 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. Notwithstanding the foregoing, Flock automatically deletes Wing Replay after seven (7) days, during which time Agency may view, save and/or transmit such data to the relevant government agency prior to deletion. Flock does not own and shall not sell Agency Data.

- a. Flock shall not maintain any Agency Data in any data center or other storage location outside the United States for any purpose without the prior express written consent of Agency. Flock shall not allow remote access to any Agency Data from outside the United States including access by Flock's employees or agents, without the prior express written consent of Agency.
- b. For any Agency Data handled, processed, stored, or accessed within or by the provision of Services, Flock shall:
 - i. Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of the Agreement;
 - ii. Maintain its network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards;
 - iii. Comply with Colorado and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing; and
 - iv. Promptly report all incidents involving unauthorized access to the Services, to Agency.
- c. Security Assessment. Flock will make reasonable efforts to remediate any vulnerabilities or will request a security exception from Agency. Flock will work with Agency to prepare any requests for exceptions from the security requirements described in this Agreement and its Exhibits, including mitigating controls and other factors, and Agency will consider such requests in accordance with their policies and procedures.

4.3 Agency Generated Data in Wing Suite. Parties understand that Flock does not own any right, title, or interest to third-party video integrated into the Wing Suite. Flock may provide Agency with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Wing Suite, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Agency. Agency shall retain whatever legally cognizable right, title, and interest that Agency has in Agency Generated Data. Agency understands and acknowledges that Flock has no obligation to monitor or enforce Agency's intellectual property rights to Agency Generated Data. To the extent legally permissible, Agency grants Flock a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute



the Agency Generated Data for the sole purpose of providing Flock Services. Flock does not own and shall not sell Agency Generated Data.

- a. Flock shall indemnify, save, and hold harmless Agency, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by Agency in relation to any claim that any part of the Services, or the use thereof, which infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. In addition to indemnification, in the event of such infringement, Flock shall:
 - i. Procure for Agency that right to continue using the Services; or
- b. At no additional cost to Agency, replace or modify the Services so that it becomes non-infringing, but only if the modification or replacement does not adversely affect the specification of the Services or its use by Agency. If neither option is practical from Agency's perspective, Flock shall remove the Services and Hardware from Agency and shall issue a credit for the Services to Agency, less reasonable depreciation. Thereafter, any Agreement and license involved shall be considered canceled.

4.4 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.

4.5 Aggregated Data. Flock shall have the right to collect, analyze, and anonymize Agency Data and Agency Generated Data to create Aggregated Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right (during and after the Term hereof) to use and distribute such Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts. Parties understand that the aforementioned license is required for continuity of Services. No rights or licenses are granted except as expressly set forth herein. Flock does not sell Aggregated Data.

5. PAYMENT OF FEES

5.1. Fees. Agency shall pay the fees as set forth in the Order Form.

5.2 Notice of Changes to Fees. Should renewal occur, Flock reserves the right to change the fees for subsequent Renewal Terms after the second year by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

5.3 Invoicing, Late Fees; Taxes. Flock may choose to bill through an invoice, in which case, full payment for invoices must be received by Flock thirty (30) days after the date of invoice. If Agency is a non-tax-exempt entity, Agency shall be responsible for all applicable taxes associated with Services (for non-tax-exempt reasons). If 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, to receive an adjustment or credit. 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 due to such billing error.

6. TERM AND TERMINATION

6.1 Term. The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "**Term**"). Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement shall automatically renew for up to four successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal 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.



- a. For Wing Suite products: the Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.
- b. For Falcon and Sparrow products: the Term shall commence upon first installation and validation of Flock Hardware.
- c. For Raven products: the Term shall commence upon first installation and validation of Flock Hardware.
- d. For Falcon Flex products: the Term shall commence upon execution of this Agreement.

6.2 Termination for Convenience. At any time during the agreed upon Term, either Party may terminate this Agreement for convenience. Termination for convenience of the Agreement by the Agency will be effective immediately. Agency may also terminate under this Section if funds are not appropriated under Section 6.6. Termination for convenience by Agency will result in a one-time removal fee of \$500 per Flock Hardware. Termination for convenience by Flock will not result in any removal fees. Upon termination for convenience, a refund will be provided for Flock Hardware, prorated for any fees for the remaining Term length set forth previously. Wing Suite products are not subject to refund for early termination. Flock will provide advanced written notice and remove all Flock Hardware at Flock's own convenience, within a commercially reasonable period of time upon termination.

6.2.1 Termination within the Pilot Period. Agency may terminate this Agreement within the 60 day Pilot Period by providing Flock with written notice any time within the Pilot Period. Such termination shall not be considered a termination for convenience under Section 6.2 and will not be subject to the \$500 removal fee for Flock Hardware. In the event Agency decides to reduce the number of cameras initially installed for the Pilot Period, Flock shall not charge a removal fee for the removal of these cameras.

6.3 Termination. Notwithstanding the termination provisions in Section 2.5.2, in the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the 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 (30) 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 No-Fee Term. Flock will provide Agency with complimentary access to Hotlist alerts, as further described in Section 4.2 ("**No-Fee Term**"). In the event a Non-Agency End User grants Agency access to Footage and/or notifications from a Non-Agency End User, Agency will have access to Non-Agency End User Footage and/or notifications until deletion, subject to a thirty (30) day retention policy for all products except Wing Replay, which is subject to a seven (7) day retention policy. Flock may, in their sole discretion, provide access or immediately terminate the No-Fee Term. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine to impose a price per No-Fee Term upon thirty (30) days' notice to Agency. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days' notice.

6.5 Survival. The following Sections will survive termination: 2.5, 2.6, 3, 4, 5, 6.4, 7.3, 7.4, 8.1, 8.2, 8.3, 8.4, 10.1 and 10.6.

6.6 Financial obligations of Arvada payable after the current fiscal year are contingent on funds for that purpose being appropriated, budgeted, and otherwise made available by the City Council for Arvada. Arvada's obligations under the Agreement shall be from year to year only and shall not constitute a multiple-fiscal year direct or indirect

debt or other financial obligation of Arvada within the meaning of Article X, Section 20 of the Colorado Constitution (TABOR).

6.7 Upon any termination or expiration under this Section, Flock shall allow Agency access to download Agency Data and Footage for 30 days following the date of termination.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 **Remedy.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a “*Defect*”), Agency must notify Flock’s technical support as described in Section 2.10 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock 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 Flock Hardware provided that such inspection and test shall occur within a commercially reasonable time, but no longer than seven (7) business days after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Flock Hardware at no additional cost to Agency within a reasonable time. Absent a Defect, in the event that Flock Hardware is lost, stolen, or damaged, Agency may request that Flock replace the Flock Hardware 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 Flock Hardware, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Flock Hardware and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Flock Hardware unless the replacement or repair is due to a Defect. Flock is not obligated to replace or repair Agency Hardware unless Flock damages the Agency Hardware.

7.2 **Exclusions.** Flock will not provide the remedy described in Section 7.1 if Agency has misused the Flock Hardware, Agency Hardware, or Service in any manner.

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. 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. Upon completion of any installation or repair, Flock shall clean and leave the area in good condition and repair any damaged caused by Flock during such installation or repair at Flock’s expense.

7.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY’S SOLE REMEDY FOR A DEFECTIVE FLOCK HARDWARE OR EMBEDDED SOFTWARE, AND FLOCK’S SOLE LIABILITY FOR SUCH, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. 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 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. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6.

7.5 **Insurance.** Flock will maintain the insurance policies in accordance with the attached **Exhibit #B**.

7.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their 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, supply chain shortages of equipment or supplies, weather conditions or acts of hackers, internet



service providers or any other third Party acts or omissions. Force Majeure includes the novel coronavirus Covid-19 pandemic, and the potential spread of variants, which is ongoing as of the date of the execution of this Agreement.

8. LIMITATION OF LIABILITY; NO FEE TERM; 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 BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND 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, EXCEEDS 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. 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 AND DOES NOT APPLY TO CLAIMS RESULTING FROM FLOCK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

8.1.1 Indemnification of Agency. FLOCK SHALL AT ITS SOLE COST DEFEND, INDEMNIFY AND HOLD HARMLESS THE AGENCY, ITS OFFICERS, DIRECTORS, COUNCIL MEMBERS, EMPLOYEES, AND REPRESENTATIVES, FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTIONS, DEMANDS, LIABILITIES, JUDGMENTS, SUITS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) MADE BY ANY THIRD PARTY TO THE EXTENT ARISING FROM: (I) FLOCK'S BREACH OF REPRESENTATION OR WARRANTY ON THE APPLICABLE SOFTWARE AS SET FORTH IN PARAGRAPH 7.3 OF THE AGREEMENT; (II) CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT OF A THIRD PARTY RIGHT IN CONNECTION WITH THE AGREEMENT, INCLUDING ALLEGATIONS OF MISAPPROPRIATION OF A TRADE SECRET OR INFRINGEMENT OF A U.S. OR COMMON LAW PATENT, COPYRIGHT, OR TRADEMARK; (III) FLOCK'S NEGLIGENCE, GROSSLY NEGLIGENCE OR WILLFUL ACT, ERROR OR OMISSION RELATING TO OR ARISING FROM FLOCK'S INSTALLATION, REINSTALLATION, REPAIR, REPLACEMENT OR REMOVAL OF HARDWARE DURING THE PERFORMANCE OF THE AGREEMENT; AND (IV) FLOCK'S VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAW, STATUTE, ORDINANCE, RULE, REGULATION, CONSTITUTION, OR CHARTER.

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 6.4 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.4 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complementary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement. For clarity, the No-Fee Term refers to Flock's Hotlist service.



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.

9. [reserved]



10. MISCELLANEOUS

10.1 Compliance With Laws. The Agency and Flock agree to comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s). In the event Flock is legally compelled to comply with a judicial order, subpoena, or government mandate, to disclose Agency Data or Agency Generated Data, Flock will provide Agency with notice.

10.2 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.

10.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchase of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction. In the event of any such assignment, the assigning Party shall provide the other party with written notice.

10.4 Entire Agreement. This Agreement, together with the Order Form(s), the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>), Deployment Plan(s), and any attached addenda 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. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail.

10.5 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. Flock shall at all times be and act as an independent contractor.

10.6 Governing Law: Venue. This Agreement shall be governed by the laws of the State in which the Agency is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

10.7 Publicity. Upon prior written consent from Agency, 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 Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. 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 **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 Parties they are representing.

10.11 **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 email; 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.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

AGENCY NOTICES ADDRESS:

ADDRESS: legal@flocksafety.com

AGENCY NOTICE ADDRESS:

8101 Ralston Road

Arvada, CO 80002

ATTN: City Attorney's Office

EMAIL: rmorris@arvada.org

11. Arvada Provisions

11.1 GOVERNMENTAL IMMUNITY. Liability for claims for injuries to persons or property arising from the negligence of Agency, its departments, boards, commissions, committees, bureaus, offices, employees and officials shall be governed by the provisions of the Colorado Governmental Immunity Act, §§24-10-101, et seq., C.R.S. (CGIA). No term or condition of the Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions contained in the CGIA.

11.2 OPEN RECORD REQUESTS. Agency is obligated to comply with the Colorado Open Records Act (C.R.S. §§24-72-200.1 et seq.)(CORA), which may require Agency to disclose all or a portion of communications relating to the Agreement, any transaction under the Agreement, and other related matters. Flock has been advised to familiarize itself with CORA.

11.3 NO THIRD PARTY BENEFICIARIES. The Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than Agency and Flock. Enforcement of the Agreement and all related rights and obligations are reserved solely to Agency and Flock. Any services or benefits which third parties receive as a result of the Agreement are incidental and do not create any rights for such third parties.

11.4 EXTERNAL TERMS AND CONDITIONS. Excluding Flock's reinstall fee schedule and privacy policy, Agency shall not be subject to any provision included in any terms, conditions, or agreements appearing on Flock's or a subcontractor's website or any provision incorporated into any click-through or online agreements related to the work performed or provided under this Agreement unless that provision is specifically referenced in the Agreement.



11.5 Flock or any of its Subcontractor shall provide for the security of any Criminal Justice Information, as defined under C.R.S. §24-72-302, in accordance with the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation Services Security Policy for all CJI in accordance with **Exhibits C and D**.

INFORMATION SECURITY ADDENDUM

This Information Security Addendum (“**InfoSec Addendum**”) is agreed and accepted as of _____ (“**InfoSec Addendum Effective Date**”) as part of the Master Services Agreement (“**Agreement**”) entered into as of _____ (“**Agreement Effective Date**”), by and between Flock Group, Inc. (“**Flock**”), and _____ (“**Customer**”). The InfoSec Addendum is incorporated into the Agreement by reference. All capitalized terms used but not defined herein will have the meaning ascribed to them in the Agreement.

1. PURPOSE

1.1. Scope. This InfoSec Addendum sets forth Flock’s information security program and infrastructure policies in order to protect Customer Data from unauthorized use, access, disclosure, theft, and/or manipulation for the term of the Agreement and for any period of time thereafter during which Flock Safety has possession of or access to the Customer Data.

1.2. Conflict. In the event of a conflict between this Addendum and the Agreement, the terms of this Addendum shall control only to the extent of the conflict.

2. PHYSICAL SECURITY.

2.1. Data Center. Flock will exclusively use Amazon Web Services (“**AWS**”) for the provision of data center facilities. Flock warrants that AWS meet the physical security requirements appropriate for processing and storage of Customer Data and will regularly, but at least annually, review the AWS certification of its data center facilities.

2.2. Flock Offices. Flock offices will not store tangible Customer Data in any form. Office facilities are protected with locks and cameras.

2.3. Flock Laptops. Notwithstanding Section 2.2 above, Customer Data may be temporarily downloaded onto Flock-owned laptops for data analysis and/or troubleshooting. Laptops are security-hardened with a configuration that includes full-disk encryption, enforced password authentication, and automatic screensaver with password unlock.

3. NETWORK, STORAGE, AND HOST SECURITY.

3.1. Transmission. Flock will ensure Customer Data under Flock’s control traversing any public network will be end-to-end encrypted using TLS 1.2 or better, and a cipher suite adhering to the recommendations of NIST SP800-52 of at least AES128-SHA256 or better.

3.2. Geographic Location. Flock does not store Customer Data outside of the United States.

3.3. Storage and Encryption. Flock will store all Customer Data transmitted to Flock in AWS S3 containers set with encryption-at-rest to AES256 or better; or in Flock databases encrypted to AES256 or better; or to online backups (“snapshots”) stored in AWS S3 containers set with encryption-at-rest to

AES256 or better. Decryption and management of encryption keys are controlled by Flock. Only NIST-approved ciphers and modes will be used for encryption.

3.4. Storage Media. Flock will not store Customer Data on removable media (e.g. tapes, removable disks, flash drives, etc.) in the normal course of business. Any transfer of Customer Data via removable media is prohibited without Customer's written approval.

3.5. Intrusion Detection / Prevention. Flock will implement appropriate tools, equipment and mechanisms in the environment of, and within, the application designed to prevent unauthorized access to Customer Data. Such tools may include deployment of firewalls, intrusion detection systems, malware detection, and malware interception software. Flock will monitor all such tools, and assess and take steps to address any incidents of which it becomes aware without undue delay.

4. LOGGING AND MONITORING.

4.1. Availability and Performance. Flock will continuously monitor infrastructure, network, storage, and system performance.

4.2. Security Alerts. Flock maintains intrusion detection systems that log events to Flock's security team in real-time. Additional security logs are generated for periodic review by the security team including failed and successful login attempts.

5. THIRD PARTY SECURITY.

5.1. Vendor Due Diligence. Flock conducts appropriate due diligence prior to engaging any third party, vendor, subcontractor, or subprocessor used to provide any services to the Customer.

5.2. Vendor Management. Flock will evaluate all vendors to ensure their security controls are of a level consistent with or better than Flock's own, prior to any vendor being given access to any Flock system or Customer Data. Flock uses a formal vendor risk management system based on recommendations in NIST SP 800-39.

5.3. Vendor Certification and Warranty. Flock will evaluate and store vendor credentials, vendor engagement agreements, and any other artifacts as appropriate for the task engaged (such as PCI-DSS attestations for payment processors; ISO27001 for Infrastructure Providers; SOC-2 where applicable for SaaS) for at least one year past the lifetime of the vendor engagement with Flock. Flock will review such artifacts and credentials annually.

6. CUSTOMER ACCESS CONTROLS.

6.1. Customer Authentication (SAML Login). Customers with Single Sign-On via the "Security Assertion Markup Language" standard ("**SAML Login**") will configure any access restrictions via the Customer's IdP. All access controls (such as password complexity, multi-factor authentication, session length validity) are the responsibility of the Customer.

6.2. Customer Authentication (OAuth2 Login). Customers with Single Sign-On via the “Open Authentication 2.0” standard (“**OAuth2 Login**”) will either (a) allow users to configure any access restrictions via their OAuth2 provider, or (b) may restrict the OAuth2 domain to an OAuth2 provider under their control (such as the enterprise Google Workspace). All access controls (such as password complexity or multi-factor authentication) are the responsibility of the OAuth2 account holder. Where Customer controls the OAuth2 provider (such as for Google Workspace), all access controls are the responsibility of the Customer.

6.3. Customer Authentication (username/password). Customers may allow username/password as a mechanism to authenticate users. Customer passwords are stored within Auth0 using industry standard techniques. Flock will ensure no user password is ever stored in the clear in any Flock-controlled cache, file, database, or access log.

7. CUSTOMER DATA.

7.1. Flock Service. The Customer will control access to data obtained by Flock’s service, via Flock’s user interface. The Customer may invite, allow access to, remove access from the service at any time. Upon written request, Flock’s Customer team can update user permissions for the Customer. In the case of specific deletion, Flock will use commercially reasonable efforts to remove all Customer Data from shared access, and from Flock’s systems following the completion of backup cycles, as Customer Data may be temporarily retained in Flock backups after deletion.

7.2. Personal Information. Flock acknowledges that in connection with providing the Services, it collects and processes user personal information and/or personal data (“Personal Information”) in accordance with its Privacy Policy available at flocksafety.com/privacy-policy. Subject to the terms and conditions of the Agreement, Flock shall be considered a “Service Provider” of Personal Information for purposes of the California Consumer Privacy Act of 2018 and the General Data Protection Regulation 2016/679, respectively. Flock shall be solely responsible for its compliance with privacy and data protection laws, including, but not limited to: (i) ensuring Personal Information is lawfully processed; (ii) the fulfillment of any individual rights requests; and (iii) responding to and remediating any data breaches.

7.3. Access Control. Flock’s access controls will include commercially reasonable procedures to check and enforce access restrictions for network requests.

7.4. Customer Data Segmentation. Data that is captured as part of the Flock service is stored as an individual file, in an encrypted AWS S3 container, with the URL controlled by the Flock Safety servers.

7.5. Custom Data Retention. Data that is captured on private cameras as part of the Flock service is stored for 30 days, and then permanently deleted. Notwithstanding, data that is captured on cameras purchased directly by a law enforcement agency or a governing body of a municipality are stored subject to retention laws and regulations that have been put in place by a democratically elected official or body that governs a municipality, but no longer than one (1) year.

7.6. Customer Data Confidentiality. Flock will not share Customer Data with any third party except as necessary to perform its obligations under the Agreement or as otherwise permitted by the Agreement.

8. INCIDENT MANAGEMENT.

8.1. Assessment and Notification. Flock will promptly investigate all reported or detected security issues and assess the impact to the Customer. If the Customer is affected, Flock will ensure the Customer is notified within the timeframe required by applicable laws to the email address provided by the Customer for reporting security incidents.

8.2. Remediation. For any incident that affects the Customer, Flock will inform the Customer of the progress of any remediation periodically throughout remediation activity. Based on Flock's assessment, customers may be involved in the remediation. Flock will provide the Customer with a detailed report of the incident as soon as reasonably possible (the "**Report**") which shall be Flock's Confidential Information. Flock will retain all data related to the incident for at least one year past the termination of this Agreement.

9. FLOCK SAFETY ACCESS CONTROLS.

9.1. Flock Workforce Authentication. Flock staff will use individual credentials to access the Flock system. All access permissions are role-based grants, on the principle of least privilege. Multifactor authentication is mandatory for system access. Additional multifactor authentication is required for access to core systems such as for infrastructure management or financial system access.

9.2. Flock Endpoint Devices. Flock's end-point devices will be configured to increase protection of any Customer Data that may be accessed, including full-disk encryption, mandatory login passwords, and password-secured screensavers.

10. SOFTWARE DEVELOPMENT.

10.1. Code Development. Flock uses a Secure Software Development Life Cycle (SSDLC) framework for all code development. All branch, feature, and release must be reviewed by more than one team member. Pull requests must be approved by an authorized team member. Automated code analysis and integration testing is applied before any code merge, and again before release to production.

10.2. Change Management. Flock requires all code to pass all automated tests prior to being considered for release. A release must be approved by an authorized team member designated for that code area. Emergency fixes may be expedited but will still require approval from an authorized member of the responsible team. Incident management change control will be overseen by Flock's CTO.

10.3. Software Frameworks. Flock uses industry-standard software frameworks and libraries. All frameworks are regularly reviewed for security issues and amendments made as appropriate to any deployed or in-development code.

10.4. Threat and Vulnerability Management. Flock uses internal vulnerability scanning tools including AWS Inspector to identify known vulnerabilities. Flock will undergo a penetration test carried out by an independent third party on at least an annual basis.

11. HUMAN RESOURCES SECURITY.

11.1. Background Verification. Flock conducts background verification of its employees and contractors in accordance with relevant laws and regulations. Background verification checks are commensurate with an individual's job duties and include at a minimum of identity verification and criminal history checks.

11.2. Training. All Flock employees receive regular training on security and privacy requirements to comply with Flock's information security policies and procedures. Training is provided during employee onboarding and at least annually thereafter. Additional training is provided to address new threats as they emerge.

12. BUSINESS CONTINUITY.

12.1. Backup. Flock will maintain multiple snapshots of operational databases to be able to recover data. Backup restoration is restricted to senior Flock operations staff, authenticated by multifactor authentication. Snapshots will be encrypted to AES256 or better.

12.2. Resiliency by Design. Flock will design backend servers to be naturally resilient. Single server failures will trigger automatic recovery/failover to another server for that function.

13. REGULATORY COMPLIANCE AND AUDIT.

13.1. AUDIT. Flock will only seek accreditation or attestation from reputable auditors. Flock will retain all third-party audit results for at least two (2) years. Customers may request to examine evidence and the result of audits when they are available. Customers do not have the right to independently audit Flock directly as part of this Agreement.

In Witness Whereof, the parties have caused this Agreement to be signed as of the Effective Date by their duly authorized representatives.

CUSTOMER

Signature: Edward Brady

Name: Edward Brady

Title: Chief of Police

Date: _____

FLOCK GROUP, INC.

Signature: Mark Smith

Name: Mark Smith

Title: General Counsel

Date: _____

Exhibit B: ARVADA'S INSURANCE REQUIREMENTS

The following listed insurance requirements shall be carried by the selected vendor for the entirety of the contract. Applicable requirements for this solicitation are identified by completed check boxes.

1. ☒ **Commercial General Liability**, written on an occurrence form, for limits not less than \$1,000,000 for bodily injury and property damage for each occurrence and not less than \$2,000,000 aggregate. Coverage shall include premises and operations liability, blanket contractual, broad form property damage, products and completed operations and personal injury endorsements.
2. ☒ **Workers' Compensation and Employers Liability** as required by statute. Employers Liability coverage is to be carried for a minimum limit of \$100,000 each accident/ \$500,000 disease aggregate.
3. ☒ **Automobile Liability** for limits not less than \$1,000,000 combined single limit for bodily injury and property damage for each occurrence. Coverage shall include owned, non-owned and hired automobiles.
4. ☐ **Umbrella Liability** of \$, following form to the Commercial General Liability.
5. ☐ **Builders Risk or Course of Construction** Purchased by contractor to cover physical damage to property in construction or rehab. Contractors will ensure that City and subcontractors will be covered as additional insureds, excluding their own machinery, tools and equipment.
6. ☐ **Professional Liability** Professional Liability insurance in an amount of not less than One Million Dollars and No cents (\$1,000,000.00) per occurrence, covering the professional work contemplated under this proposal. The coverage shall have an extended reporting period of three (3) years following the date of substantial completion of the work for reporting of claims.
7. ☐ **Pollution Legal Liability Insurance** for limits not less than \$1,000,000 per occurrence (or claims made) and not less than \$1,000,000 aggregate for bodily Injury, personal Injury and property Damage.
8. ☒ **Privacy/Network/Cyber Liability Insurance** for limits not less than \$1,000,000 for any firm providing product or services associated with IT, software, communication, or network.

Additional Insurance Requirements:

- Contractor will be required to, at its own expense, keep in full force and effect during the term of the Agreement, and during the term of any extension or amendment of the Agreement, insurance reasonably sufficient to insure against the liability assumed by Contractor pursuant to the provisions of the solicitation sent by the City of Arvada or as determined by the City of Arvada Risk Manager.
- Issuance of a Purchase Order/Contract is contingent upon the receipt of the insurance documents. Work shall not commence before this requirement is met. If the vendor fails to submit the required insurance documents within fifteen (15) calendar days after notice to submit such policies is given to the vendor by a City representative, the vendor may be in default of the Award.
- Except for Workers Compensation, Employer's Liability insurance, Automobile Liability and Professional Liability insurance, the City of Arvada must be endorsed as an additional insured on a Certificate of Insurance.

- All coverage must be written with carriers holding a minimum A.M. Best rating of A-:VII, and authorized to do business in Colorado. Coverage shall be primary, and any insurance held by the City of Arvada is excess and non-contributory.
- The City, through its Risk Manager, reserves the right to require additional insurance coverage and other requirements.

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

The goal of this document is to augment the CJIS Security Policy to ensure adequate security is provided for criminal justice systems while (1) under the control or management of a private entity or (2) connectivity to FBI CJIS Systems has been provided to a private entity (contractor). Adequate security is defined in Office of Management and Budget Circular A-130 as “security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information.”

The intent of this Security Addendum is to require that the Contractor maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

This Security Addendum identifies the duties and responsibilities with respect to the installation and maintenance of adequate internal controls within the contractual relationship so that the security and integrity of the FBI's information resources are not compromised. The security program shall include consideration of personnel security, site security, system security, and data security, and technical security.

The provisions of this Security Addendum apply to all personnel, systems, networks and support facilities supporting and/or acting on behalf of the government agency.

1.00 Definitions

1.01 Contracting Government Agency (CGA) - the government agency, whether a Criminal Justice Agency or a Noncriminal Justice Agency, which enters into an agreement with a private contractor subject to this Security Addendum.

1.02 Contractor - a private business, organization or individual which has entered into an agreement for the administration of criminal justice with a Criminal Justice Agency or a Noncriminal Justice Agency.

2.00 Responsibilities of the Contracting Government Agency.

2.01 The CGA will ensure that each Contractor employee receives a copy of the Security Addendum and the CJIS Security Policy and executes an acknowledgment of such receipt and the contents of the Security Addendum. The signed acknowledgments shall remain in the possession of the CGA and available for audit purposes. The acknowledgement may be signed by hand or via digital signature (see glossary for definition of digital signature).

3.00 Responsibilities of the Contractor.

3.01 The Contractor will maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed and all subsequent versions), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

4.00 Security Violations.

4.01 The CGA must report security violations to the CJIS Systems Officer (CSO) and the Director, FBI, along with indications of actions taken by the CGA and Contractor.

4.02 Security violations can justify termination of the appended agreement.

4.03 Upon notification, the FBI reserves the right to:

- a. Investigate or decline to investigate any report of unauthorized use;
- b. Suspend or terminate access and services, including telecommunications links. The FBI will provide the CSO with timely written notice of the suspension. Access and services will be reinstated only after satisfactory assurances have been provided to the FBI by the CGA and Contractor. Upon termination, the Contractor's records containing CHRI must be deleted or returned to the CGA.

5.00 Audit

5.01 The FBI is authorized to perform a final audit of the Contractor's systems after termination of the Security Addendum.

6.00 Scope and Authority

6.01 This Security Addendum does not confer, grant, or authorize any rights, privileges, or obligations on any persons other than the Contractor, CGA, CJA (where applicable), CSA, and FBI.

6.02 The following documents are incorporated by reference and made part of this agreement: (1) the Security Addendum; (2) the NCIC 2000 Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20. The parties are also subject to applicable federal and state laws and regulations.

6.03 The terms set forth in this document do not constitute the sole understanding by and between the parties hereto; rather they augment the provisions of the CJIS Security Policy to provide a minimum basis for the security of the system and contained information and it is understood that there may be terms and conditions of the appended Agreement which impose more stringent requirements upon the Contractor.

6.04 This Security Addendum may only be modified by the FBI, and may not be modified by the parties to the appended Agreement without the consent of the FBI.

6.05 All notices and correspondence shall be forwarded by First Class mail to:

Information Security Officer

Criminal Justice Information Services Division, FBI

1000 Custer Hollow Road

Clarksburg, West Virginia 26306

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

CERTIFICATION

I hereby certify that I am familiar with the contents of (1) the Security Addendum, including its legal authority and purpose; (2) the NCIC Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20, and agree to be bound by their provisions.

I recognize that criminal history record information and related data, by its very nature, is sensitive and has potential for great harm if misused. I acknowledge that access to criminal history record information and related data is therefore limited to the purpose(s) for which a government agency has entered into the contract incorporating this Security Addendum. I understand that misuse of the system by, among other things: accessing it without authorization; accessing it by exceeding authorization; accessing it for an improper purpose; using, disseminating or re-disseminating information received as a result of this contract for a purpose other than that envisioned by the contract, may subject me to administrative and criminal penalties. I understand that accessing the system for an appropriate purpose and then using, disseminating or re-disseminating the information received for another purpose other than execution of the contract also constitutes misuse. I further understand that the occurrence of misuse does not depend upon whether or not I receive additional compensation for such authorized activity. Such exposure for misuse includes, but is not limited to, suspension or loss of employment and prosecution for state and federal crimes.

Printed Name/Signature of Contractor Employee

Date

Mark Smith

Printed Name/Signature of Contractor Representative

March 28, 2023

Date

Organization and Title of Contractor Representative