

SECTION VIII. TERMS AND CONDITIONS

A. City's Standard Terms and Conditions

The terms and conditions set forth in Attachment B – Software as a Service (SaaS) Procurement and Professional Services Agreement will apply to any contract resulting from this RFP.

B. Review and Selection Process

Proposals will be evaluated by a Selection Committee, which will consider the completeness of each proposal and how well it meets the needs of the Department. Evaluations will be based on criteria as outlined in the table below. All proposals in response to this RFP will be evaluated using the same standards.

The purpose of the selection procedure is to determine, from among the proposals received, which one is best suited to meet the Department's needs. Any final analysis or weighted score does not imply that one Proposer is superior to another, but simply that, in the Selection Committee's judgment, the selected Proposer appears to offer the best overall solution for the Department's current and anticipated needs.

The objective is to choose the proposal that offers the highest quality products and services while achieving the project's goals and objectives within a reasonable budget. While cost is important, other factors are also significant, and the Department, at its discretion, may not select the lowest cost proposal.

Selection Criteria	Points Available
1. Qualifications and Experience of Firm/Suitability with RCPD Needs	30
2. Quality of Vendor References	5
3. Projected Costs	25
4. Quality and Relevance of Illustrative Examples Provided for Review, and Projected Timeframe for Completion	15
5. Compatibility and Seamless Integration with Evidence.Com™	25
Total Points Available Per Proposal	100

Award of contract occurs when a Purchase Order is issued, or other evidence of acceptance by the City is provided to the Proposer. A Recommendation of Award does not constitute an award of contract. Contract documents will consist of the Software as a Service (SAAS) Procurement and

Professional Services Agreement, this RFP and all related attachments, the Successful Proposer's written proposal, and a Purchase Order issued by the City's Finance Department.

SECTION IX. CONTRACT AWARD

The Police Department will recommend to the awarding authority the award of a contract to the Proposer who provides the most responsive fixed-mount automatic license plate reader program solution, equal or superior to the RFP provisions provided. The City reserves the right to award the contract to the Proposer who presents the proposal which, in the judgement of the Department, best accomplishes the desired results for an integrated ALPR digital camera capture, automated image storage, Image analytics, and image retrieval solution.

SECTION X. RIGHTS OF THE CITY

This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right to:

- Make the selection based on its sole discretion;
- Reject any and all proposals and solicit or advertise again;
- Issue subsequent RFPs;
- Postpone contract start date for its own convenience;
- Remedy technical errors in the RFP process;
- Cancel the RFP and reject any and all proposals when it is in the best interest of the City;
- Waive inconsequential irregularities in the proposals;
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

An agreement shall not be valid or binding on the City unless and until it is executed by authorized representatives of the City and of the Proposer.

SECTION XI. PUBLIC NATURE OF PROPOSAL MATERIALS

Responses to this RFP become the exclusive property of the City. The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the California Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" may be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City may not accept or approve that the information that a Proposer submits is a trade secret. If a request is made for information marked as "Confidential,"

"Trade Secret," or "Proprietary," the City shall provide the Proposer who submitted the information with reasonable notice to allow the Proposer to seek protection from disclosure by a court of competent jurisdiction.

SECTION XII. FAIR DEALING/CONFLICT OF INTEREST

The Proposer warrants that no gratuities, in the form of entertainment, gifts or otherwise, were, or will be offered or given by the Proposer, or any agent or representative of the Proposer to any officer or employee of the City with a view toward securing a recommendation of award or subsequent contract or for securing more favorable treatment with respect to making a recommendation of award.

The Proposer warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under the contract resulting from this RFP. The Proposer also warrants that, to the best of its knowledge, no officer, agent or employee of the City who shall participate in any decision relating to this RFP and the resulting contract, currently has, or will have in the future, a personal or pecuniary interest in the Proposer's business.

SECTION XIII. NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

SECTION XIV. QUESTIONS REGARDING THE RFP

Should discrepancies or omissions be found in this RFP or should there be a need to clarify this RFP, questions regarding this RFP must be put in writing and received by the City contact person identified in **Section XV** no later than **February 22 at 3:00 pm PST**. Inquiries received after the date and time stated will not be accepted.

Any interpretations or corrections of the RFP will only be made by an addendum posted online to the City's website. Such addendum shall be considered a part of the RFP and must be signed and submitted with the proposal. Oral interpretations or clarifications will be without legal effect.

SECTION XV. CONTACT PERSON

Inquiries relating to this RFP and/or the required services should be directed to:

Lieutenant Joshua Chilton
Redwood City Police Department
1301 Maple Street

Redwood City, CA 94063
jchilton@redwoodcity.org
650-780-7152

**AFTER SIGNING, PLEASE SUBMIT ALL PAGES OF THIS PROPOSAL PRICING FORM, INCLUDING THE
SIGNATURE PAGES AND SUBMIT ALL PAGES OF THE RFP.**

ATTACHMENT A – REFERENCE LIST

Please list three (3) public agency Police Department clients, preferably in California, along with a brief description of the work, which the City may contact regarding the Proposer’s work performance.

REFERENCE # 1

AGENCY / CITY NAME:	
DEPARTMENT:	
CONTACT PERSON:	
TELEPHONE:	
EMAIL ADDRESS:	
DOLLAR VALUE OF AGREEMENT:	
DATE RANGE OF AGREEMENT:	
NATURE OF WORK PERFORMED:	

REFERENCE # 2

AGENCY / CITY NAME:	
DEPARTMENT:	
CONTACT PERSON:	
TELEPHONE:	
EMAIL ADDRESS:	
DOLLAR VALUE OF AGREEMENT:	
DATE RANGE OF AGREEMENT:	
NATURE OF WORK PERFORMED:	

REFERENCE # 3

AGENCY / CITY NAME:	
DEPARTMENT:	
CONTACT PERSON:	
TELEPHONE:	
EMAIL ADDRESS:	
DOLLAR VALUE OF AGREEMENT:	
DATE RANGE OF AGREEMENT:	
NATURE OF WORK PERFORMED:	

AFTER COMPLETING, PLEASE SUBMIT ALL PAGES OF THIS REFERENCE LIST AND SUBMIT ALL PAGES OF THE RFP.

ATTACHMENT B –

SOFTWARE AS A SERVICE (SaaS) PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF REDWOOD CITY AND

This SaaS PROCUREMENT AND PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of _____, 202____, for reference purposes only, by and between the City of Redwood City, a charter City and municipal corporation of the State of California (hereinafter referred to as the "City"), and _____ (hereinafter referred to as "Provider").

RECITALS

- A. City desires to procure software and services which will be delivered remotely on a subscription and/or fixed fee basis to support its operations in the area of [_____] (the "SaaS Solution").
- B. Provider submitted a proposal for the SaaS Solution dated [_____] ("Proposal") and has been selected to provide the SaaS Solution on the basis of the features and functionality of the SaaS Solution and the representations and commitments of Provider contained in the Proposal.
- C. The parties desire by this Agreement to establish the terms for City to retain Provider to provide the SaaS Solution.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. SaaS Solution. The SaaS Solution is comprised of software and services that will be provided to the City as follows:
 - a. Software. Provider shall provide City with access to the software, which is described in the "Schedule of Software" which is attached hereto as Exhibit "A" ("Software"). The performance and functionality of the Software shall comply in all respects with the commitments made in the Proposal and the description of the Software features and specifications contained in Provider's technical documentation for the Software (collectively, the "Functional Specifications"). If the Proposal was in response to an RFP issued by the City for the SaaS Solution, then the Functional Specifications will include any

requirements for the SaaS Solution included in the RFP unless specifically excluded in the Proposal.

- b. Services. Provider shall further provide City with the services necessary to provide the SaaS Solution and to implement, use and support the Software as described in the "Schedule of Services" attached hereto as Exhibit "B" ("Services"). Services which are provided on a one-time basis in connection with the setup and implementation of the SaaS Solution, including without limitation, account setup, software and database configuration, data conversion and training, are referred to herein as the "Implementation Services".
 - c. Hosting/Database Services. If the SaaS Solution includes hosting, data storage, system backup and recovery or other remote services, then such services will conform to the network performance and availability requirements set forth in Section 11 of this Agreement and the Provider's service level agreement which is attached hereto as Exhibit "C" ("Cloud Services SLA").
2. Supplemental Terms. The City shall have a license and/or subscription to use the SaaS Solution, including any Software, for its operations, subject to the terms of this Agreement and the additional terms and conditions of Provider, which are contained in the "Terms of Service Addendum" which is attached hereto as Exhibit "D". In the event of any conflict between the terms of this Agreement and the Terms of Service Addendum, the terms of this Agreement will prevail.
3. Term; Performance Schedule.
 - a. The term of this Agreement will commence on [_____] and will continue for a period of [__] years. The Agreement may thereafter be renewed for additional one (1) year terms with the mutual written agreement of City and Provider.
 - b. Provider shall provide the Software and Services, including any Implementation Services, in a prompt and timely manner in accordance with the "Performance Schedule" that is attached hereto as Exhibit "E". Any delays or changes in the Performance Schedule shall be subject to the terms of Section 7.
4. Compensation.
 - a. Subject to paragraph 4(c) below, the City shall pay for Software and Services in accordance with the schedule of fees and costs which is attached hereto as Exhibit "F" ("Fee Schedule"). If a license or subscription fee for Software is based on the number of active users rather than an enterprise license which allows an unlimited number of users for the City's authorized use, then Provider will either restrict access to the number of authorized users or will provide City with a means to actively monitor and restrict access to ensure that there is no violation in the number of authorized users.

Furthermore, with respect to any network or database services with storage limitations, Provider will have a mechanism to notify City if it is within ten percent (10%) of its authorized limit. Notwithstanding any term of the Terms of Services Addendum, in no event will the City be automatically charged additional licenses or subscription fees for exceeding the number of authorized users or for exceeding storage limits. City will be given notice of any such excess use and an opportunity to cure it or purchase additional users or capacity.

- b. The timing of all payments by the City will be as set forth in the Fee Schedule, provided, however, that if no payment period is specified, then payments will be made by City within forty-five (45) days of the date that an invoice is received. If payments are subject to completion of a milestone by Provider or acceptance of work product or services by City, then the City, in its sole discretion, will determine whether the appropriate milestone or other acceptance criteria has been satisfied in accordance with the Contract Documents (as defined below).
- c. With respect to the Implementation Services, Provider agrees that based on its familiarity with the SaaS Solution, the cost estimate for the Implementation Services will not exceed the budgeted amount that is set forth in the Fee Schedule unless there is a change in the scope of the Implementation Services and such change is reflected in the execution of a written amendment pursuant to Section 7 of this Agreement.

5. Maintenance and Support of SaaS Solution.

- a. Unless otherwise expressly set forth in this Agreement, the regular maintenance and support of the SaaS Solution is included in the fees for the Software and Services which are set forth in the Fee Schedule. Response times in connection with support requests will be as set forth in Exhibit G ("Schedule of Support Services"). In the event that [] () or more errors categorized as Level 3 or higher pursuant to the Schedule of Support Services occurs during any calendar month, City may terminate this Agreement for material breach, provided City notifies Provider in writing of termination within 30 days of the end of such calendar month.
- b. In the event that the City requires customization of the Software, additional training or extraordinary support, then the City and Provider will agree on the additional cost for such services, or if a standard rate schedule for additional services is set forth in the Fee Schedule, then such standard rates will apply.

6. Contract Documents. The following documents shall govern the performance of this Agreement and the terms and conditions for the provision of the Software and Services (collectively, the "Contract Documents"):

- a. This Agreement;

- b. Terms of Service Addendum;
- c. Schedule of Software;
- d. Schedule of Services;
- e. Schedule of Support Services;
- f. Fee Schedule;
- g. Security Policy;
- h. City Insurance Requirements;
- i. Exhibits, addenda or other attachments to the foregoing documents;
- j. Proposal; and
- k. If applicable, the RFP.

In the event of any conflict between the terms and conditions of the Contract Documents, the Contract Documents shall govern in accordance with the foregoing order of priority with this Agreement acting as the master agreement. In the event of any ambiguity or dispute with respect to the SaaS Solution described in the Functional Specifications, the Schedule of Software and the Schedule of Services, the parties shall first look to the Proposal and then, if applicable, the RFP, to resolve such ambiguity.

7. Additional Work. If changes in the Project and the Contract Documents are requested by Provider or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Provider with a statement of the estimated changes in the Schedule of Services, the Fee Schedule and the Performance Schedule. An amendment to the Agreement shall be prepared by the City and executed by both parties before any change becomes binding upon City. Provider acknowledges that any material amendment to the Contract Documents, particularly with respect to the Fee Schedule, may be subject to approval by the City Council. Such amendment shall not render ineffective or invalidate unaffected portions of the Contract Documents.
8. Maintenance of Records. Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Provider and made available at all reasonable times during the Agreement period and for four (4) years from the date of final payment under the Agreement for inspection by the City.
9. Ownership of Data and Intellectual Property.

- a. City shall be the owner of all data that is used, stored or processed by Provider in connection with the SaaS Solution ("City Data") and will not disclose, share, sell or otherwise make any use of such data except in the performance of its obligations under this Agreement. For the avoidance of doubt, City Data includes all data created or in any way originating with the City, or is collected by Provider on behalf of the City, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the City as part of the SaaS Solution, or is collected by the Provider on behalf of the City in connection with the SaaS Solution, whether such data or output is stored on the City's hardware, Provider's hardware or exists in any system owned, maintained or otherwise controlled by the City or by Provider. Provider will deliver to City a full copy of all City Data that is stored by Provider or held in any database in connection with the Software within five (5) days of City's request, including within ninety (90) days following the termination of this Agreement, subject to any fee set forth in the Fee Schedule. Furthermore, at the request of City, Provider shall further destroy all copies of the data that are in Provider's possession.
- b. The storage and handling of City Data by Provider is as a service provider on behalf of City and it is not intended that the performance of the obligations of Provider pursuant to this Agreement will be subject to the California Consumer Privacy Act as currently in effect. Provider will cooperate with City to ensure that the storage and handling of City Data remains in compliance with any privacy requirements that are applicable to the City.
- c. Provider shall remain the owner of the Software and any of Provider's intellectual property that is associated with the SaaS Solution and the performance of any of the Services.

10. Data Security.

- a. For purposes of this Section 10, the following definitions apply:
 - (i) "Data Breach" means the unauthorized access by a non-authorized person's that results in the use, disclosure or theft of City Data.
 - (ii) "City Identified Contact" means the person or persons designated in writing by the City to receive Security Incident or Data Breach notification.
 - (iii) "Security Incident" means the potentially unauthorized access by non-authorized persons to City Data that Provider believes could reasonably result in the use, disclosure or theft of City Data within the possession or control of Provider. A Security Incident may or may not turn into a Data Breach.

- b. The Software and Services will be provided in accordance with the security protocols that are set forth in the security policy of Provider, which is attached hereto as Exhibit "G" ("Security Policy"). The Security Policy sets forth the minimum level of encryption, intrusion detection and data protection that is provided for the SaaS Solution and Provider will not make any change to the Security Policy during the terms of this Agreement that would provide less rigorous protection. Notwithstanding any term of the Security Policy, all City Data will be encrypted while in transit and while at rest or in storage on Provider's servers. All connections between City and Provider where Provider employees or contractors have access to the City's network or City Data while providing Services will be secured using a virtual private network or similar protocol. City Data that is stored by Provider will only be stored on servers, which are located in the United States of America. Provider shall not allow its personnel or contractors to store City Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Provider shall permit its personnel and contractors to access City Data remotely only as required to provide the Services or to provide technical support.
- c. Provider shall inform the City of any Security Incident or Data Breach in accordance with the following protocols:
- (i) Provider may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in this Agreement. Discussing Security Incidents with the City should be handled on an urgent as-needed basis, as part of Provider communication and mitigation processes as mutually agreed upon, defined by law or contained in this Agreement.
 - (ii) Provider shall report a Security Incident to the appropriate City Identified Contact immediately.
 - (iii) If Provider has actual knowledge of a confirmed Data Breach that affects the security of any City Data, Provider shall (1) promptly notify the appropriate City Identified Contact within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.
 - (iv) Provider shall (1) cooperate with the City as reasonably requested by the City to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Services, if necessary.

- (v) Unless otherwise stipulated, if a Data Breach is a direct result of Provider's breach of its contractual obligation to secure City Data in accordance with this Agreement and the Security Policy or otherwise prevent its release, Provider shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) a credit monitoring service required by state (or federal) law; (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$225 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach; and (5) complete all corrective actions as reasonably determined by Provider based on root cause.

11. Service Level Requirements.

- a. Upon completion of the Implementation Services, the City will test the hosted environment to ensure processing in accord with the requirements below, and, based on this testing, Provider will use reasonable efforts to configure and optimize the hosted environment that is used by the services in the event that the City notifies Provider (to include providing Provider with documented testing results) that the testing demonstrates processing not in accord with the terms of this Section 11 or the Cloud Services SLA. These processing requirements apply to all standard transactions such as queries, data retrieval, data entry and navigating through screens in the Software.
- b. Under the test conditions set forth above, the Software in the hosted environment must be capable of processing the following number and type of transaction within the defined response times:
 - (i) Query lookups – a maximum of three (3) second average response time for common inquiries. Such common inquiries shall include, but not be limited to, performing any inquiries, displaying the results of the inquiries, displaying any input screen in the Software and running performance reports.
 - (ii) Field to field prompting within a single screen – maximum, one (1) second.

In the event that any Software fails to operate in accordance with the foregoing, Provider shall modify or adjust the Software to operate in accord with such requirements at Provider's expense.

- c. The bandwidth and network availability for the SaaS Solution shall be as follows:
 - (i) Provider will provide network bandwidth between its servers and the Internet at levels that will provide dependable and stable access, allowing the product to operate as intended. Uptime will be at least 99.99%. Provider will exercise

reasonable efforts to achieve the performance levels set forth above. In the event that average performance falls below the foregoing target during any calendar month, Provider shall credit City five percent (5%) of such month's applicable service fees for each one tenth of one percent (0.1%) that uptime is below the target; provided such credit will not exceed fifty percent (50%) of any month's otherwise applicable service fees. Credits issued pursuant to this Section apply to outstanding or future invoices only and are forfeit upon termination of this Agreement. Provider is not required to issue refunds or to make payments against such credits under any circumstances, including, without limitation, termination of this Agreement.

- (ii) Provider (1) will use reasonable efforts to make the Services available 24 hours per day, 7 days per week, excluding downtime for scheduled maintenance. If Provider intends to install an upgrade or patch to the system that impacts the availability, operation, look-and-feel, or functionality of Services, Provider will provide the City at least two (2) business days' notice and coordinate, if necessary, with the City before any upgrades or patches are applied so the City can plan accordingly, and (2) will promptly investigate any technical problems that the City reports. Provider does not guarantee the integrity of data transmitted via the Internet.

12. Delays in Performance.

- a. Neither the City nor Provider shall be considered in default of the Contract Documents for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to: abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.
- b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance under the Contract Documents. It is not intended by the parties that any such delay shall extend for a period in excess of sixty (60) days.

13. Compliance with Law.

- a. In carrying out its obligations under the Contract Documents, Provider shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements and requirements for verification of employees' legal right to work in the United States.

- b. If required, Provider shall assist the City, as requested, in obtaining and maintaining all permits required of Provider by federal, state and local regulatory agencies.

14. Warranty

- a. Software Warranty. Provider warrants that the Software will conform in all material respects to the Functional Specifications during the term of this Agreement. Provider agrees to correct, through its standard support process, any nonconformity of which it receives notice during the term. In addition, Provider warrants that any customization to the Software on behalf of City will conform in all material respects to the Functional Specifications. This warranty is void if the City or any other third party intentionally changes or modifies the Software without the permission of Provider.
- b. Malware. Provider warrants that the Software does not contain any virus or malware and that no employee or contractor of Provider will introduce malware into City's network during the performance of this Agreement.
- c. Service Warranty. Provider warrants that all Services provided under this Agreement will be performed in a professional, competent and workmanlike manner in accordance with the requirements of the Schedule of Services and the Functional Specifications, if applicable. Provider shall further provide a sufficient number of properly trained and competent staff to carry out the Services in a skilled and professional manner consistent with the best practices in the software industry and in compliance with the Performance Schedule.
- d. Remedies. Provider covenants that it will make corrections of program errors which are reported in writing to Provider during the term and which are necessary for the Software to conform to the warranties set forth in this Section 14. City agrees to allow Provider the opportunity to make repeated efforts within a thirty (30) daytime period to correct programming errors as warranted in this Agreement. Provider agrees that program errors that result in the inability of the City to make functional use of the Software will be given its highest priority with the problem corrected as soon as practicably possible. Provider will strive to have all errors resolved within no more than five calendar days.

15. Acceptance Testing. All Implementation Services shall be subject to acceptance testing by City to verify, to its reasonable satisfaction, that each deliverable conforms to the requirements of a particular phase or milestone as set forth in the Schedule of Services or with respect to the Software, that it conforms to the Functional Specifications in all material respects and does not contain material errors. Acceptance testing will not begin for any deliverable until sufficient data, as reasonably determined by City, has been converted and loaded into the Software or component thereof to enable City to test the functionality of the Software or any component thereof in a test environment that approximates a live production environment. If City determines that any Software deliverable or Implementation Services do not conform with the

foregoing requirements, City shall promptly deliver to Provider a notice of non-conformity, and Provider shall work diligently to correct all nonconformities free of charge to City by issuing one or more error corrections or re-performing the defective Implementation Services. Each error correction shall be subject to additional acceptance testing by City. Notwithstanding the acceptance of any deliverable by City, such deliverable shall remain subject to the warranty obligations of Provider for the term of this Agreement.

16. Assignment and Subcontractors. Provider shall not subcontract, assign or transfer this Agreement or any rights under or interest in the Contract Documents without the written consent of the City, which may be withheld for any reason at the sole discretion of the City. Nothing contained herein shall prevent Provider from employing independent contractors, as well as employees, to provide Services as Provider may deem appropriate, provided, however, that Provider shall remain fully responsible for such independent contractors.
17. Independent Contractor. Provider is retained as an independent contractor and is not an employee of the City. No employee or agent of Provider shall become an employee of the City. The work to be performed shall be in accordance with the work described in this Contract Documents, subject to such directions and amendments from the City as herein provided.
18. Integration. The Contract Documents represent the entire understanding of the City and Provider as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated Agreement.
19. Title to Software. Provider represents and warrants that it is the sole owner of the Software or, if not the owner, that it has received all legally required authorizations from the owner to license the Software as contemplated herein, has the full power to grant the rights required by this Agreement, and that neither the Software, nor its use in accordance with the Contract Documents, will violate or infringe upon any patent, copyright, trade secret, or any other property rights of another person.
20. No Suspension of Use. Unless City is in breach of its obligations under this Agreement and has failed to cure such breach within the applicable cure period, in no event will Provider suspend City's access to the SaaS Solution and City Data unless such suspension is necessary to protect the integrity and security of Provider's network, in which case Provider will give City prompt notice of cause of such suspension and the anticipated duration thereof.
21. Infringement and Performance Breach Remedies. If it is claimed that any work furnished by Provider infringes any intellectual property right or is otherwise unlawful, Provider agrees to defend or settle any such claim or suit at Provider's expense and to indemnify and hold the City harmless from any losses, damages or harm, including attorney's fees and legal expenses, incurred as a result of such claim. Without the City's prior written approval, Provider shall not

accept any liability on the City's behalf for the infringement, nor shall Provider reach a settlement that from the City perspective impairs the value or usefulness of the work that is the subject of the infringement claim. Provider will also pay all damages and costs that by final judgment, settlement or other resolution are assessed against the City due to such alleged or proven infringement and reimburse the City for any direct damages suffered by the City as a result of the infringement claim, including but not limited to attorney's fees. Should Provider find, or be found, to have infringed on any intellectual property rights, Provider will procure; (i) a right for the City to continue using the applicable Software, (ii) a solution to mitigate the infringement, or (iii) a product to replace the infringing product that provides the functionality and complies with the specifications contained in the Contract Documents. The City shall not incur any additional costs related to the aforementioned remedies.

22. Termination

- a. Termination for Default. Subject to the right to cure contained in Section 22.b., the City may terminate this Agreement in whole or in part, at any time that the City determines that Provider is in material default of its obligations under the Contract Documents. Termination for default is effective on the date specified in the City's written notice of default. Should Provider fail to cure a default, then in addition to any other remedies provided by law or the Contract Documents, Provider shall compensate the City's actual costs to obtain substitute performance. A termination for default shall be deemed a termination for convenience if the termination for default is later found to be without justification.
- b. Cure. Provider shall have a period of ten (10) days following a written notice of default to either cure such default or if such default cannot be cured within such period, to provide evidence satisfactory to City, in its sole discretion, that Provider is taking action to cure such default.
- c. Termination for Convenience. This Contract may be terminated by the City, in whole or in part, upon ninety (90) days written notice to Provider, when the City determines this to be in its best interest. The termination for convenience is effective on the date specified in the City's written notice. Termination for convenience may entitle Provider to payment for reasonable costs allocable to the Contract Documents for work or costs incurred by Provider up to the date of termination. Provider shall not be paid compensation as a result of a termination for convenience that exceeds the amount payable under the Schedule of Charges.

- d. Use of SaaS Solution. If there is a termination for any reason, the City shall have the right to elect to (i) continue use of the Software for the remainder of the period in which City has paid the license or subscription fee to Provider; or (ii) discontinue use of such Software in exchange for a proportional refund of such license or subscription fee.
23. Indemnification. To the fullest extent permitted by law, Provider shall defend, indemnify and hold the City, its Board, members of the Board, employees, and authorized volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Provider, its officials, officers, employees, subcontractors, Providers or agents in connection with the performance of Provider's services, the Project or this Agreement. In addition, Provider shall defend, with counsel of City's choosing and, at Provider's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by this section that may be brought or instituted against City or its Board, members of the Board, employees, and authorized volunteers. Provider shall pay and satisfy any judgment, award or decree that may be rendered against City or its Board, members of the Board, employees, and authorized volunteers as part of any such claim, suit, action or other proceeding. Provider shall also reimburse City for the cost of any settlement paid by City or its Board, members of the Board, employees, or authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Provider shall reimburse City and its Board, members of the Board, employees, and/or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.
24. Insurance; Limitation on Liability; Exceptions.
- a. Provider will comply with the "Insurance Requirements" of City, which are attached hereto as Exhibit "H" and included as a part of this Agreement.
- b. Neither City, nor Provider, shall be liable to the other for any indirect or consequential damages, including lost profits, as a result of any breach of the Contract Documents.
- c. Notwithstanding the foregoing, no limitation on liability contained in the Contract Documents shall apply to any third-party claim for personal injury or wrongful death arising from the negligent acts or willful misconduct of either party, its agents or assigns. Furthermore, no limitation on liability applicable to Provider shall apply to any third-party claim that the Software infringes upon the intellectual property rights of another party, nor to the obligation of Provider to deliver the Software and Services in accordance with the Scope of Work and Provider's warranty obligations.

25. Laws, Venue, and Attorneys' Fees. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, including arbitration pursuant to Section 30, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.
26. Documents. Provider shall deliver to City no less than one (1) full set of documentation, manuals and training materials for the Software and City shall have the right to copy such documents and materials for its own internal use of the Software.
27. Notice. Any notice or instrument required to be given or delivered by this Agreement may be given or delivered in person or sent via commercial overnight delivery, addressed to each party at the address set forth on the signature page or such other address for which a party has given notice. Notice will be effective upon receipt.
28. Severability. The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.
29. Counterparts. This Agreement and any exhibits, amendments or renewals hereto may be executed in a number of counterparts, and each counterpart signature, when taken with the other counterpart signatures, is treated as if executed upon one original of this Agreement or any amendment or renewal. A signature by any party to this Agreement provided by facsimile or electronic mail is binding upon that party as if it were the original.
30. Arbitration. Any dispute arising under this Agreement, including, without limitation, all disputes relating in any manner to the performance or enforcement of this Agreement shall be resolved by binding arbitration in the County of San Mateo, California, pursuant to the rules of Judicial Arbitration and Mediation Services ("JAMS"), as amended or as augmented in this Agreement (the "Rules"). Arbitration shall be initiated as provided by the Rules, although the written notice to the other party initiating arbitration shall also include a description of the claim(s) asserted and the facts upon which the claim(s) are based. Arbitration shall be final and binding upon the parties and shall be the exclusive remedy for all claims subject hereto, including any award of attorney's fees and costs. Either party may bring an action in court to compel arbitration under this Agreement and to enforce an arbitration award. All disputes shall be decided by a single arbitrator. The arbitrator shall be selected by mutual agreement of the parties within thirty (30) days of the effective date of the notice initiating the arbitration. If the parties cannot agree on an arbitrator, then the complaining party shall notify JAMS and request selection of an arbitrator in accordance with the Rules. The arbitrator shall have only such authority to award equitable relief, damages, costs, and fees as a court would have for the particular claim(s) asserted. In no event shall the arbitrator award punitive damages of any kind. The parties acknowledge that one of the purposes of utilizing arbitration is to avoid lengthy and expensive discovery and allow for prompt resolution of the dispute. The arbitrator shall have the power to limit or deny a request for documents or a deposition if the arbitrator determines that the request exceeds those matters, which are directly relevant to the claims in controversy. The

document demand and response shall conform to Code of Civil Procedure section 1282.6. The deposition notice shall conform to Code of Civil Procedure section 1283. The parties may make a motion for protective order or motion to compel before the arbitrator with regard to the discovery, as provided in Code of Civil Procedure. Notwithstanding the election by the parties to arbitrate their disputes, nothing contained herein shall prevent a party from filing an action in a court of competent jurisdiction to seek any form of equitable remedy or relief.

31. Discrimination and Harassment Prohibited. Provider will comply with all applicable local, state and federal laws and regulations prohibiting discrimination and harassment.
32. Conflict of Interest. If disclosure under the Political Reform Act and City's Conflict of Interest Code is required of Provider or any Provider personnel, Provider and/or affected Provider personnel will complete and file with the City Clerk the schedules specified by City and contained in the Statement of Economic Interests Form 700. Provider, for Provider and on behalf of Provider personnel, warrants that they have no interest, present or contemplated, in the projects affected by this Agreement. Provider further warrants that neither Provider nor any Provider personnel have any ancillary real property, business interests, or income that will be affected by this Agreement or, alternatively, that Provider will file an affidavit with City disclosing this interest.
33. Claims and Lawsuits. Provider acknowledges that if Provider submits a false claim to City, Provider may be subject to criminal prosecution for fraud. Provider also acknowledges that California Government Code sections 12650 et seq. (the False Claims Act) applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. This includes false claims made with deliberate ignorance of false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Provider acknowledges that filing a false claim may subject Provider to an administrative disbarment proceeding. As a result of such proceeding, Provider may be prevented from act as a Provider on any public work or improvement for a period of up to five (5) years. Provider acknowledges that disbarment by another jurisdiction is grounds for City to terminate this Agreement.
34. Notices. The name of the persons who are authorized to give written notices or to receive written notice on behalf of City and on behalf of Provider under this Agreement are as follows:

For City:
City of Redwood City
Attention: Melissa Stevenson Diaz, City Manager
1017 Middlefield Road
Redwood City, CA 94063
(650) 780-7000

For Provider:

Name: _____

Title: _____

Address: _____

Phone: _____

Email: _____

Except as otherwise stated, all notices provided under this Agreement must be in writing and will be deemed delivered on receipt as follows: (i) in person; (ii) via commercial overnight courier; or (iii) via electronic mail as long as receipt of the electronic mail is confirmed by the recipient via return electronic mail. Each party will notify the other immediately of any changes to the above addresses.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

City

CITY OF REDWOOD CITY

By: _____

Name: _____

Title: _____

Address:

Phone: _____

Email: _____

PROVIDER

a _____ corporation

By: _____

Name: _____

Title: _____

Address:

Phone: (____) ____-____

Email: _____

EXHIBIT I

INSURANCE REQUIREMENTS

A. Provider, at its sole expense, will maintain the types of coverages and minimum limits indicated below, unless otherwise approved by City in writing. These minimum amounts of coverage will not constitute any limitations or cap on Provider's indemnification obligations under this Agreement.

- Commercial General Liability Insurance. Provider will maintain occurrence-based coverage with limits not less than \$2,000,000 per occurrence and \$5,000,000 in the aggregate. If the submitted policies contain aggregate limits, such limits will apply separately to the Services, project, or location that is the subject of this Agreement or the aggregate will be twice the required per occurrence limit. The Commercial General Liability insurance policy will be endorsed to name the City, its officers, agents, employees and volunteers as additional insureds, and to state that the insurance will be primary and not contribute with any insurance or self-insurance maintained by the City.
- Business Automobile Liability Insurance. Provider will maintain coverage with limits not less than \$1,000,000 per each accident for owned, hired and non-owned automobiles.
- Workers' Compensation Insurance. Provider will maintain coverage as required by the California Labor Code. The Workers' Compensation policy will contain an endorsement stating that the insurer waives any right to subrogation against the City, its officers, agents, employees and volunteers.
- Employer's Liability Insurance. Provider will maintain coverage with limits not less than \$1,000,000 per each accident for bodily injury or disease.
- Professional Liability Insurance. Provider will maintain coverage with limits not less than \$1,000,000 per occurrence. Professional Liability may be written as claims-made coverage.
- Third party cyber liability insurance. Provider will maintain cyber liability coverage with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

B. This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without Provider providing thirty (30) days prior written notice to City sent pursuant to the Notice provisions of this Agreement.

C. Prior to City's execution of this Agreement, Provider will provide to City certificates of insurance and above-referenced endorsements sufficient to satisfaction of City's Risk Manager. In no event will Provider commence any work or provide any Services under this Agreement until certificates of insurance and endorsements have been accepted by City's Risk Manager.

D. If Provider fails to comply with these insurance requirements, then City will have the option to declare Provider in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Provider is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Provider or deduct the amount paid from any sums due Provider under this Agreement.

PLEASE SUBMIT ALL PAGES OF THIS SAMPLE AGREEMENT AND SUBMIT ALL PAGES OF THE RFP

The disclosure of such confidential information shall be subject to the following terms and conditions.

- i. The term "Agency Confidential Information" shall mean any material, data, systems, procedures and other information of or with respect to Agency that is not be accessible or known to the general public, including information concerning its hardware, software, business plans or opportunities, business strategies, finances, employees, and third-party proprietary or other information that Agency treats as confidential. Flock shall not use, publish or divulge any Agency Confidential Information except (i) in connection with Flock's provision of Software and services pursuant to this Agreement, (ii) to Flock's officers, directors, employees, agents and contractors who need to know such information to enable Flock to provide Software and services pursuant to this Agreement, or (iii) with the prior written consent of Agency, which consent Agency may withhold in its sole discretion.
- ii. The term "Flock Confidential Information" means any material, data, systems, procedures and other information of or with respect to Flock that is not accessible to or known to the general public, including, without limitation, the software, object code, source code, formulae, algorithms, financial data, clients, employees, software development plans, software support third-party proprietary or other information that Flock treats as confidential. Agency shall not use, publish or divulge any Flock Confidential Information except (i) to its employees, agents and officers who need to know such information to enable Agency to use the Flock Services, or (ii) with the prior written consent of Flock, which consent Flock may withhold in its sole discretion.
- iii. Each party shall protect the other's confidential information with the same degree of care normally used to protect its own similar confidential information, but in no event less than that degree of care that a reasonably prudent business person would use to protect such information. The obligations of each party to protect confidential information received from the other party shall not apply to information that is publicly known or becomes publicly known through no act or failure to act on the part of the recipient. All provisions of this MOU concerning the Confidentiality section herein, shall survive any termination of this MOU.

B. Exclusions. Confidential Information shall not include any information that is (i) already known to the receiving party at the time of the disclosure; (ii) publicly known at

termination. Either party may terminate this MOU upon written notice if the other party has breached a material term of this MOU and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach. Upon termination of this MOU, Agency will immediately cease all use of Flock Services. This MOU is subject to termination without written notice after expiration of the Term.

8. Indemnification. Each Party to this MOU 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 MOU. For tort liability purposes, no participating Party shall be considered the agent of the other participating Party. Each Party to this MOU 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. Under no circumstances shall this MOU be interpreted to create a partnership or agency relationship between the Parties.

9. Limitation of Liability.

A. Limitation on Direct Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL FLOCK, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES OR REPRESENTATIVES BE LIABLE FOR ANY AMOUNT GREATER THAN THE FEES PAID TO FLOCK UNDER THIS MOU, OR \$100 IN UNITED STATES CURRENCY, WHICHEVER IS GREATER, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), PRODUCT LIABILITY OR OTHERWISE.

B. Waiver of Consequential Damages. IN NO EVENT SHALL FLOCK OR ITS LICENSORS OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Confidentiality.

A. Obligations. During the performance of services and Agency's use of the Flock Service under this Agreement it may be necessary for a party to provide the other with certain information considered to be proprietary or confidential by the disclosing party.

alter, or tamper with any of the Flock Service, or 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 Service; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Flock Service; or (vi) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency's rights under Sections 2. Agency may only access Recordings and Flock Service to perform the Purpose, as described in Section 1. Agency shall not use the Flock Service in any manner not permitted by appropriate governing Federal and State regulations or laws; Agency represents and warrants that, in receiving access to Flock Services, such video and supplemental data shall be used solely for purposes authorized by law and described in this MOU.

4. Ownership. As between the Parties, subject to the rights granted in this MOU, Flock and its licensors retain all right, title and interest in and to the Flock Service, and its components and any Recordings or data provided by Flock through the Flock Service, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this MOU. The rights granted by this MOU do not include ownership or any additional rights which would conflict with Flock's ownership of Flock IP or the ownership of other licensors. There are no implied rights.

5. Warranty. Flock and its licensors make no express or implied warranty as to the conditions of the Recordings, or fitness for a particular research, data, investigative purpose or resulting actions or omissions resulting from videos and supplemental data obtained by Agency through the use of Flock Services.

6. Financial Implications to Agency. No financial commitment by Agency is required to access the Flock Services or Recordings.

7. Term; Termination.

A. Term. This MOU will commence once executed by both parties and shall continue for a period of Five (5) years.

B. Termination. Prior to expiration of the Term, Flock may terminate this MOU for its convenience, and in its sole discretion, by providing Agency thirty (30) days prior written notice of termination. Agency may terminate this MOU for its convenience, and in its sole discretion, by providing Flock ninety (90) days prior written notice of

MEMORANDUM OF UNDERSTANDING

This Data Sharing Memorandum of Understanding (hereinafter "**MOU**") is entered into by and between Flock Group, Inc. with a place of business at 2588 Winslow Drive, Atlanta, GA 30305 ("**Flock**") and Missouri Capitol Police with a place of business at 630 W. Main Street, Jefferson City, Missouri 65101 ("**Agency**") (each a "**Party**", and together, the "**Parties**").

Whereas, Agency desires to access Flock's technology platform and Flock Safety dashboard (together, the "**Flock Service**") for investigative purposes, in order to view and search videos recorded by Flock ("**Recordings**") which are
utilizing its software for automatic license plate detection;

Whereas, Flock desires to share such videos and supplemental data with Agency pursuant to the following terms and conditions:

1. **Purpose.** To allow the Agency to utilize the Flock Services for the following purpose: to gain awareness with respect to the communities for which they serve to protect and facilitate investigations (the "Purpose").

2. **Access Rights to Flock Services.** Subject to the terms and conditions contained in this MOU, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Flock Service during the Term (as defined below), solely for use by Authorized Users in accordance with the terms and conditions herein. For purposes of this MOU, "Authorized Users" will mean employees, agents, or officers of Agency accessing or using the Flock Services for the Purpose. Agency acknowledges and agrees that, as between Agency and Flock, Agency shall be responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User which would constitute a breach of this MOU, shall be deemed a breach of this MOU by Agency. Agency shall undertake reasonable efforts to make all Authorized Users aware of the provisions of this MOU as applicable to such Authorized User's use of the Flock Service, and shall cause Authorized Users to comply with such provisions.

3. **Restrictions on Use.** Agency will not, and will not permit any Authorized Users or any third party to, (i) copy or duplicate any of the Flock Service; (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 Service is compiled or interpreted; (iii) modify,

the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving party; (iii) subsequently disclosed to the receiving party on a non-confidential basis by a third-party not having a confidential relationship with the other party hereto that rightfully acquired such information; or (iv) communicated to a third party by the receiving party with the express written consent of the other party hereto. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process or the Freedom of Information Act or Missouri Sunshine Law, Chapter 610, RSMo, shall not be considered a breach of this MOU; provided the receiving party provides prompt notice of any such subpoena, order, or the like to the other party so that such party will have the opportunity to obtain a protective order or otherwise oppose the disclosure.

11. **Entire Agreement.** This MOU is complete and contains the entire understanding between the Parties relating to the sharing of Recordings and Confidential Data by and between Flock and Agency. This MOU supersedes any and all other agreements between the Parties. This Agreement is non-assignable by both Parties.

12. **Severability.** Nothing in this MOU is intended to conflict with or violate State or Federal laws, regulations, policies, etc. If a term or provision of this MOU is inconsistent with a law or authority, then that term or provision shall be invalid, but the remaining terms and provisions shall remain in full force and effect. If any provision of this MOU is found to be unenforceable, unlawful, or void, the provision shall be deemed severable from the MOU and shall not affect the validity of the remaining provisions.

13. **Miscellaneous.** All notices, requests, demands, or other communications required or permitted to be given hereunder must be in writing and must be addressed to the parties at their respective addresses set forth below and shall be deemed to have been duly given when (a) delivered in person; (b) one (1) business day after being deposited with a reputable overnight air courier service; or (c) three (3) business days after being deposited with the United States Postal Service, for delivery by certified or registered mail, postage pre-paid and return receipt requested. This MOU shall be governed by the laws of the state in which the Agency is located, excluding its conflict of laws rules. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this MOU.

IN WITNESS WHEREOF, Flock and the Agency have caused this MOU to be signed on the date set forth below and be effective on the last date specified below.

FLOCK GROUP, INC.

DocuSigned by:
By: *Alex Latraverse*
D7492021662D461...
Name: Alex Latraverse
Title: Chief Revenue officer
Date: 3/29/2022

MISSOURI CAPITOL POLICE

DocuSigned by:
By: *Zim Schwartze*
E26761BDE6474D9...
Name: Zim Schwartze
Title: Chief
Date: 3/29/2022

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This Data Sharing Memorandum of Understanding (hereinafter "**MOU**") is entered into by and between Flock Group, Inc. with a place of business at 2588 Winslow Drive, Atlanta, GA 30305 ("**Flock**") and Missouri Capitol Police with a place of business at 630 W. Main Street, Jefferson City, Missouri 65101 ("**Agency**") (each a "**Party**", and together, the "**Parties**").

Whereas, Agency desires to access Flock's technology platform and Flock Safety dashboard (together, the "**Flock Service**") for investigative purposes, in order to view and search videos recorded by Flock ("**Recordings**") which are stored for no longer than thirty (30) days, utilizing its software for automatic license plate detection;

Whereas, Flock desires to share such videos and supplemental data with Agency pursuant to the following terms and conditions:

- 1. Purpose.** To allow the Agency to utilize the Flock Services for the following purpose: to gain awareness with respect to the communities for which they serve to protect and facilitate investigations (the "**Purpose**").
- 2. Access Rights to Flock Services.** Subject to the terms and conditions contained in this MOU, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Flock Service during the Term (as defined below), solely for use by Authorized Users in accordance with the terms and conditions herein. For purposes of this MOU, "Authorized Users" will mean employees, agents, or officers of Agency accessing or using the Flock Services for the Purpose. Agency acknowledges and agrees that, as between Agency and Flock, Agency shall be responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User which would constitute a breach of this MOU, shall be deemed a breach of this MOU by Agency. Agency shall undertake reasonable efforts to make all Authorized Users aware of the provisions of this MOU as applicable to such Authorized User's use of the Flock Service, and shall cause Authorized Users to comply with such provisions.
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alter, or tamper with any of the Flock Service, or 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 Service; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Flock Service; or (vi) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency's rights under Sections 2. Agency may only access Recordings and Flock Service to perform the Purpose, as described in Section 1. Agency shall not use the Flock Service in any manner not permitted by appropriate governing Federal and State regulations or laws; Agency represents and warrants that, in receiving access to Flock Services, such video and supplemental data shall be used solely for purposes authorized by law and described in this MOU.

4. Ownership. As between the Parties, subject to the rights granted in this MOU, Flock and its licensors retain all right, title and interest in and to the Flock Service, and its components and any Recordings or data provided by Flock through the Flock Service, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this MOU. The rights granted by this MOU do not include ownership or any additional rights which would conflict with Flock's ownership of Flock IP or the ownership of other licensors. There are no implied rights.

5. Warranty. Flock and its licensors make no express or implied warranty as to the conditions of the Recordings, or fitness for a particular research, data, investigative purpose or resulting actions or omissions resulting from videos and supplemental data obtained by Agency through the use of Flock Services.

6. Financial Implications to Agency. No financial commitment by Agency is required to access the Flock Services or Recordings.

7. Term; Termination.

A. Term. This MOU will commence once executed by both parties and shall continue for a period of Five (5) years.

B. Termination. Prior to expiration of the Term, Flock may terminate this MOU for its convenience, and in its sole discretion, by providing Agency thirty (30) days prior written notice of termination. Agency may terminate this MOU for its convenience, and in its sole discretion, by providing Flock ninety (90) days prior written notice of

termination. Either party may terminate this MOU upon written notice if the other party has breached a material term of this MOU and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach. Upon termination of this MOU, Agency will immediately cease all use of Flock Services. This MOU is subject to termination without written notice after expiration of the Term.

8. Indemnification. Each Party to this MOU 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 MOU. For tort liability purposes, no participating Party shall be considered the agent of the other participating Party. Each Party to this MOU 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. Under no circumstances shall this MOU be interpreted to create a partnership or agency relationship between the Parties.

9. Limitation of Liability.

A. Limitation on Direct Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL FLOCK, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES OR REPRESENTATIVES BE LIABLE FOR ANY AMOUNT GREATER THAN THE FEES PAID TO FLOCK UNDER THIS MOU, OR \$100 IN UNITED STATES CURRENCY, WHICHEVER IS GREATER, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), PRODUCT LIABILITY OR OTHERWISE.

B. Waiver of Consequential Damages. IN NO EVENT SHALL FLOCK OR ITS LICENSORS OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Confidentiality.

A. Obligations. During the performance of services and Agency's use of the Flock Service under this Agreement it may be necessary for a party to provide the other with certain information considered to be proprietary or confidential by the disclosing party.

The disclosure of such confidential information shall be subject to the following terms and conditions.

i. The term "Agency Confidential Information" shall mean any material, data, systems, procedures and other information of or with respect to Agency that is not be accessible or known to the general public, including information concerning its hardware, software, business plans or opportunities, business strategies, finances, employees, and third-party proprietary or other information that Agency treats as confidential. Flock shall not use, publish or divulge any Agency Confidential Information except (i) in connection with Flock's provision of Software and services pursuant to this Agreement, (ii) to Flock's officers, directors, employees, agents and contractors who need to know such information to enable Flock to provide Software and services pursuant to this Agreement, or (iii) with the prior written consent of Agency, which consent Agency may withhold in its sole discretion.

ii. The term "Flock Confidential Information" means any material, data, systems, procedures and other information of or with respect to Flock that is not accessible to or known to the general public, including, without limitation, the software, object code, source code, formulae, algorithms, financial data, clients, employees, software development plans, software support third-party proprietary or other information that Flock treats as confidential. Agency shall not use, publish or divulge any Flock Confidential Information except (i) to its employees, agents and officers who need to know such information to enable Agency to use the Flock Services, or (ii) with the prior written consent of Flock, which consent Flock may withhold in its sole discretion.

iii. Each party shall protect the other's confidential information with the same degree of care normally used to protect its own similar confidential information, but in no event less than that degree of care that a reasonably prudent business person would use to protect such information. The obligations of each party to protect confidential information received from the other party shall not apply to information that is publicly known or becomes publicly known through no act or failure to act on the part of the recipient. All provisions of this MOU concerning the Confidentiality section herein, shall survive any termination of this MOU.

B. Exclusions. Confidential Information shall not include any information that is (i) already known to the receiving party at the time of the disclosure; (ii) publicly known at

the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving party; (iii) subsequently disclosed to the receiving party on a non-confidential basis by a third-party not having a confidential relationship with the other party hereto that rightfully acquired such information; or (iv) communicated to a third party by the receiving party with the express written consent of the other party hereto. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process or the Freedom of Information Act or Missouri Sunshine Law, Chapter 610, RSMo, shall not be considered a breach of this MOU; provided the receiving party provides prompt notice of any such subpoena, order, or the like to the other party so that such party will have the opportunity to obtain a protective order or otherwise oppose the disclosure.

11. **Entire Agreement.** This MOU is complete and contains the entire understanding between the Parties relating to the sharing of Recordings and Confidential Data by and between Flock and Agency. This MOU supersedes any and all other agreements between the Parties. This Agreement is non-assignable by both Parties.

12. **Severability.** Nothing in this MOU is intended to conflict with or violate State or Federal laws, regulations, policies, etc. If a term or provision of this MOU is inconsistent with a law or authority, then that term or provision shall be invalid, but the remaining terms and provisions shall remain in full force and effect. If any provision of this MOU is found to be unenforceable, unlawful, or void, the provision shall be deemed severable from the MOU and shall not affect the validity of the remaining provisions.

13. **Miscellaneous.** All notices, requests, demands, or other communications required or permitted to be given hereunder must be in writing and must be addressed to the parties at their respective addresses set forth below and shall be deemed to have been duly given when (a) delivered in person; (b) one (1) business day after being deposited with a reputable overnight air courier service; or (c) three (3) business days after being deposited with the United States Postal Service, for delivery by certified or registered mail, postage pre-paid and return receipt requested. This MOU shall be governed by the laws of the state in which the Agency is located, excluding its conflict of laws rules. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this MOU.

IN WITNESS WHEREOF, Flock and the Agency have caused this MOU to be signed on the date set forth below and be effective on the last date specified below.

FLOCK GROUP, INC.

DocuSigned by:
By: *Alex Latraverse*
074929216920461...
Name: Alex Latraverse
Title: Chief Revenue Officer
Date: 3/29/2022

MISSOURI CAPITOL POLICE

DocuSigned by:
By: *Zim Schwartze*
E26761BDE647409...
Name: Zim Schwartze
Title: Chief
Date: 3/29/2022

MEMORANDUM OF UNDERSTANDING

This Data Sharing Memorandum of Understanding (hereinafter "**MOU**") is entered into by and between Flock Group, Inc. with a place of business at 2588 Winslow Drive, Atlanta, GA 30305 ("**Flock**") and Missouri Capitol Police with a place of business at 630 W. Main Street, Jefferson City, Missouri 65101 ("**Agency**") (each a "**Party**", and together, the "**Parties**").

Whereas, Agency desires to access Flock's technology platform and Flock Safety dashboard (together, the "**Flock Service**") for investigative purposes, in order to view and search videos recorded by Flock ("**Recordings**") which are stored for no longer than thirty (30) days, utilizing its software for automatic license plate detection;

Whereas, Flock desires to share such videos and supplemental data with Agency pursuant to the following terms and conditions:

1. **Purpose.** To allow the Agency to utilize the Flock Services for the following purpose: to gain awareness with respect to the communities for which they serve to protect and facilitate investigations (the "**Purpose**").
2. **Access Rights to Flock Services.** Subject to the terms and conditions contained in this MOU, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Flock Service during the Term (as defined below), solely for use by Authorized Users in accordance with the terms and conditions herein. For purposes of this MOU, "Authorized Users" will mean employees, agents, or officers of Agency accessing or using the Flock Services for the Purpose. Agency acknowledges and agrees that, as between Agency and Flock, Agency shall be responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User which would constitute a breach of this MOU, shall be deemed a breach of this MOU by Agency. Agency shall undertake reasonable efforts to make all Authorized Users aware of the provisions of this MOU as applicable to such Authorized User's use of the Flock Service, and shall cause Authorized Users to comply with such provisions.
3. **Restrictions on Use.** Agency will not, and will not permit any Authorized Users or any third party to, (i) copy or duplicate any of the Flock Service; (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 Service is compiled or interpreted; (iii) modify,

alter, or tamper with any of the Flock Service, or 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 Service; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Flock Service; or (vi) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency's rights under Sections 2. Agency may only access Recordings and Flock Service to perform the Purpose, as described in Section 1. Agency shall not use the Flock Service in any manner not permitted by appropriate governing Federal and State regulations or laws; Agency represents and warrants that, in receiving access to Flock Services, such video and supplemental data shall be used solely for purposes authorized by law and described in this MOU.

4. Ownership. As between the Parties, subject to the rights granted in this MOU, Flock and its licensors retain all right, title and interest in and to the Flock Service, and its components and any Recordings or data provided by Flock through the Flock Service, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this MOU. The rights granted by this MOU do not include ownership or any additional rights which would conflict with Flock's ownership of Flock IP or the ownership of other licensors. There are no implied rights.

5. Warranty. Flock and its licensors make no express or implied warranty as to the conditions of the Recordings, or fitness for a particular research, data, investigative purpose or resulting actions or omissions resulting from videos and supplemental data obtained by Agency through the use of Flock Services.

6. Financial Implications to Agency. No financial commitment by Agency is required to access the Flock Services or Recordings.

7. Term; Termination.

A. Term. This MOU will commence once executed by both parties and shall continue for a period of Five (5) years.

B. Termination. Prior to expiration of the Term, Flock may terminate this MOU for its convenience, and in its sole discretion, by providing Agency thirty (30) days prior written notice of termination. Agency may terminate this MOU for its convenience, and in its sole discretion, by providing Flock ninety (90) days prior written notice of

termination. Either party may terminate this MOU upon written notice if the other party has breached a material term of this MOU and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach. Upon termination of this MOU, Agency will immediately cease all use of Flock Services. This MOU is subject to termination without written notice after expiration of the Term.

8. Indemnification. Each Party to this MOU 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 MOU. For tort liability purposes, no participating Party shall be considered the agent of the other participating Party. Each Party to this MOU 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. Under no circumstances shall this MOU be interpreted to create a partnership or agency relationship between the Parties.

9. Limitation of Liability.

A. Limitation on Direct Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL FLOCK, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES OR REPRESENTATIVES BE LIABLE FOR ANY AMOUNT GREATER THAN THE FEES PAID TO FLOCK UNDER THIS MOU, OR \$100 IN UNITED STATES CURRENCY, WHICHEVER IS GREATER, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), PRODUCT LIABILITY OR OTHERWISE.

B. Waiver of Consequential Damages. IN NO EVENT SHALL FLOCK OR ITS LICENSORS OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Confidentiality.

A. Obligations. During the performance of services and Agency's use of the Flock Service under this Agreement it may be necessary for a party to provide the other with certain information considered to be proprietary or confidential by the disclosing party.

The disclosure of such confidential information shall be subject to the following terms and conditions.

i. The term "Agency Confidential Information" shall mean any material, data, systems, procedures and other information of or with respect to Agency that is not be accessible or known to the general public, including information concerning its hardware, software, business plans or opportunities, business strategies, finances, employees, and third-party proprietary or other information that Agency treats as confidential. Flock shall not use, publish or divulge any Agency Confidential Information except (i) in connection with Flock's provision of Software and services pursuant to this Agreement, (ii) to Flock's officers, directors, employees, agents and contractors who need to know such information to enable Flock to provide Software and services pursuant to this Agreement, or (iii) with the prior written consent of Agency, which consent Agency may withhold in its sole discretion.

ii. The term "Flock Confidential Information" means any material, data, systems, procedures and other information of or with respect to Flock that is not accessible to or known to the general public, including, without limitation, the software, object code, source code, formulae, algorithms, financial data, clients, employees, software development plans, software support third-party proprietary or other information that Flock treats as confidential. Agency shall not use, publish or divulge any Flock Confidential Information except (i) to its employees, agents and officers who need to know such information to enable Agency to use the Flock Services, or (ii) with the prior written consent of Flock, which consent Flock may withhold in its sole discretion.

iii. Each party shall protect the other's confidential information with the same degree of care normally used to protect its own similar confidential information, but in no event less than that degree of care that a reasonably prudent business person would use to protect such information. The obligations of each party to protect confidential information received from the other party shall not apply to information that is publicly known or becomes publicly known through no act or failure to act on the part of the recipient. All provisions of this MOU concerning the Confidentiality section herein, shall survive any termination of this MOU.

B. Exclusions. Confidential Information shall not include any information that is (i) already known to the receiving party at the time of the disclosure; (ii) publicly known at

the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving party; (iii) subsequently disclosed to the receiving party on a non-confidential basis by a third-party not having a confidential relationship with the other party hereto that rightfully acquired such information; or (iv) communicated to a third party by the receiving party with the express written consent of the other party hereto. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process or the Freedom of Information Act or Missouri Sunshine Law, Chapter 610, RSMo, shall not be considered a breach of this MOU; provided the receiving party provides prompt notice of any such subpoena, order, or the like to the other party so that such party will have the opportunity to obtain a protective order or otherwise oppose the disclosure.

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FLOCK GROUP, INC.

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By: _____
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Name: Alex Latraverse
Title: Chief Revenue Officer
Date: 3/29/2022

MISSOURI CAPITOL POLICE

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