

**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 (“**Agency**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY 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**”).

<p><b>Agency: Fort Bend County Municipal Utility District No. 146</b></p> <p><b>Legal Entity Name: Fort Bend County Municipal Utility District No. 146</b></p>	<p><b>Contact Name: Hannah Brook</b></p>
<p><b>Address: 3200 Southwest Fwy # 2600, Houston, TX 77027</b></p>	<p><b>Phone: (713) 860-6400</b> <b>E-Mail: hbrook@abhr.com</b></p>
<p><b>Expected Payment Method: Check</b></p>	<p><b>Billing Contact: Jorge Diaz</b> <b>McLennan &amp; Assoc.</b> 1717 St. James Place, Suite 500, Box 45 Houston, TX 77056</p>

<p><b>Initial Term:</b> 12 months <b>Renewal Term:</b> 12 months</p>	<p><b>Billing Term:</b> Annual payment due Net 45 per terms and conditions</p>
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<b>Name</b>	<b>Price</b>	<b>QTY</b>	<b>Subtotal</b>
Professional Services - Falcon, Standard Implementation	\$650.00	10	\$6,500.00
Falcon Camera	\$3,000	10	\$30,000.00

**(Includes one-time fees)**

Year 1 Total

\$36,500.00

Recurring Total: \$30,000.00

I have reviewed and agree to the Customer Implementation Guide on Schedule B at the end of this agreement.

By executing this Order Form, Agency 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.**

**Agency: FORT BEND COUNTY M.U.D. 146**

By: DocuSigned by:  
Mark Smith  
AC5C831464C24F3

Name: Mark Smith

Title: General Counsel

Date: 2/23/2024

By: 

Name: RICHARD W. STOLLEIS

Title: BOARD PRESIDENT

Date: 02/22/2024

**EXECUTION BY FORT BEND COUNTY:**



KP George, County Judge

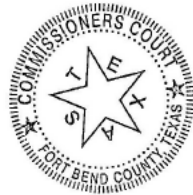
ATTEST:



Laura Richard, County Clerk

4.23.2024

Date



**Authorized End User: Fort Bend County Constable Pct. 4**

Acknowledged By: Constable Mike Beard

Name: Mike Beard

Title: Constable

Date: 4/10/2024

# flock safety

## 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**”), **Fort Bend County Municipal Utility District No. 146**, a political subdivision of the State of Texas, created under the authority of Article XVI, Section 59 of the Texas Constitution and operating under and governed by the provisions of Chapter 49 and 54, Texas Water Code, as amended (“**Agency**”), and the Fort Bend County Pct. 4 Constable’s Office (“**Authorized End User**”) (each a “**Party**,” and together, the “**Parties**”).

## RECITALS

**WHEREAS**, Flock offers a software and hardware solution for automatic license plate detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, image, and recordings data of suspected vehicles (“**Footage**”) and can provide notifications to Authorized End-Users (“**Notifications**”); and

**WHEREAS**, Agency desires to purchase and/or have installed access to the Flock Service on Flock provided Hardware (as defined below) for use by Authorized-End Users in order to create, view, search and archive Footage and receive Notifications; and

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

**WHEREAS**, Flock desires to provide 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 (“**Purpose**”).

**WHEREAS**, Agency has designated Authorized End User as the sole Authorized End User of the Flock System on behalf of Agency, and that Agency will not utilize or access the Flock System and that Authorized End User is solely responsible for extracting, downloading, or archiving Footage from the Flock System in any manner to comply with Agency's record retention policy or applicable state law. Any rights, provided to the Agency herein, shall be constructed to be provided to the Authorized End User.

## **AGREEMENT**

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

### **1. DEFINITIONS**

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

1.1 "***Authorized End User Data***" will mean the data, media and content provided by Authorized End User through the Services. For the avoidance of doubt, the Authorized End User Data will include the Footage.

1.2 "***Authorized End User(s)***" shall mean any individual employees, agents, or contractors of Fort Bend County Constable Pct. 4 accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

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

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

1.5 "***Flock IP***" will mean 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.

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

1.7 “**Hardware**” or “**Flock Hardware**” shall mean 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. The term “**Hardware**” excludes the Embedded Software.

1.8 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined in Section 1.10 below.

1.9 “**Installation Services**” means the services provided by Flock including any applicable installation of Embedded Software on Flock Hardware.

1.10 “**Non-Agency End User(s)**” shall mean 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.

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

1.12 “**Support Services**” shall mean Monitoring Services, as defined in Section 2.9 below.

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

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

1.15 “**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.

## **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 Service Term (as defined in Section

6.1 below), solely for use by the Authorized End Users. The Footage will be available for any Authorized End Users to access via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Flock will also provide Authorized End Users with the Documentation to be used in accessing and using the Services. Authorized End Users shall be responsible for all acts and omissions of its personnel, officers, agents and employees. 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 use good faith best efforts to 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, including without limitation using a third party to host the Web Interface which makes the Services available to Authorized End Users. Authorized End User 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 Hardware, solely as necessary for Authorized End User to use the Services.

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

**2.4 Usage Restrictions.**

**a. Flock IP.** The purpose for usage of the Unit, 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 and not for tracking activities that the system is not designed to capture (“*Permitted Purpose*”). Authorized End Users shall not, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP, or attempt to do any of the foregoing,

and Authorized End User acknowledges that nothing in this Agreement will be construed to grant Authorized End User any right to obtain or use such source code; (iii) modify, alter, tamper with or repair any of the Flock IP, or create any derivative product from any of the foregoing, or attempt to do any of the foregoing, except with the prior written consent of Flock; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Unit, Documentation or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency's rights under Sections 2.1, 2.2, or 2.3.

**b. 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 or Authorized End Users upon execution of this Agreement. Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of 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 2.4(b), 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.

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

**2.6 Suspension.** Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency's and any Authorized End User's access to any portion or all of the Flock IP or Flock Hardware if (i) Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP; (b) Agency's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other Agency or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Flock's provision



of the Services to Agency or any Authorized End User is prohibited by applicable law; (e) any vendor of Flock has suspended or terminated Flock's access to or use of any third party services or products required to enable Agency to access the Flock IP; or (f) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for anything other than the Permitted Purpose (each such suspension, in accordance with this Section 2.6, a "***Service Suspension***"). Flock will make commercially reasonable efforts, circumstances permitting, to provide written notice of any Service Suspension to Agency (including notices sent to Flock's registered email address) and to provide updates regarding resumption of access to the Flock IP following any Service Suspension. Flock will use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that Agency or any Authorized End User may incur as a result of a Service Suspension. To the extent that the Service Suspension is not caused by Agency's direct actions or by the actions of parties associated with the Agency, the expiration of the Service Term will be tolled by the duration of any suspension (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.

## **2.7 Installation Services.**

**2.7.1 Designated Locations.** For installation of Flock Hardware, prior to performing the physical installation of the Units, Flock shall advise Agency on the location and positioning of the Units for optimal license plate image capture, as conditions and location allow. Flock may consider input from Authorized End User regarding location, position and angle of the Units (each Unit location so designated by Agency, a "***Designated Location***"). Flock shall have final discretion on location of Units. 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 Authorized End User'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. The deployment plan will confirm the Designated Location. 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 charges. These changes include but are not limited to camera re-positioning, adjusting of camera mounting, re-angling, removing foliage, camera replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. All Reinstalls must be approved in writing by the Parties.

**2.7.2 Agency Installation Obligations.** Agency and Authorized End User agree 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 the Units are designed to utilize solar power, certain Designated Locations may require a reliable source of 120V AC power, as described in the deployment plan. In the event adequate solar exposure is not available. Agency is solely responsible for providing a reliable source of 120V AC power to the Units, if necessary. 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 Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the 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**”). In the event that a Designated Location for a Unit requires permits, Flock will provide the Authorized End User and Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Units from the temporary alternate location to the permitted location at no additional cost. Flock will provide options to supply power at each Designated Location. If Agency refuses alternative power supply options, Agency agrees and understands that Agency will not be subject to any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar. Flock will make all reasonable efforts within their control to minimize suspension of Flock Services. Any fees payable to Flock exclude the foregoing. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has all necessary

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

*2.7.3 Flock's Obligations.* Installation of any 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. Following the initial installation of the 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 the Units for the length of the Term and will receive access to the Footage for a period of three (3) business days after the initial installation in order to monitor performance and provide any necessary maintenance solely as a measure of quality control. Agency understands and agrees that the Flock Services will not function without the Hardware. Labor may be provided by Flock or a third party.

*2.7.4 Security Interest.* Flock Hardware shall remain the personal property of Flock and will be removed upon the expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Hardware by Flock. Should Agency default on any payment of the Flock Services, Flock may remove 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.

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

**2.9 Support Services.** Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency and Authorized End Users on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or

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

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

**2.10 Changes to Platform.** Flock may, in its sole discretion, make any changes to any system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock’s products or services to its Agency s, (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.

### **3. RESTRICTIONS AND RESPONSIBILITIES**

**3.1 Agency Obligations.** Flock will assist Authorized End Users in the creation of a User ID. Authorized End User agrees to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as its User ID a name that Authorized End User does not have the right to use, or another person’s name with the intent to impersonate that person. Authorized End User may not transfer its account to anyone else without prior written permission of Flock. Authorized End Users will not share its account or password with anyone, and must protect the security of its account and password. Authorized End User is responsible for any activity associated with its account. Authorized End User shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Authorized End User will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Authorized End User facilities, as well as by means of assistance from Authorized End User 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. For the avoidance of doubt, neither Agency or any of its representatives, agents, or assigns shall have a User ID or any access to use the Software.

**3.2 Agency Representations and Warranties.** Agency represents, covenants, and warrants that Agency and Authorized End User 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. To the extent allowed by the law of the State of Texas, Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses, including without limitation costs and attorneys' fees, in connection with any third-party claim or action that arises from an alleged violation of the foregoing by Agency, Agency's installation obligations, or otherwise from Agency's use of the Services, Flock Hardware, and any Embedded Software, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Agency's or Authorized End User's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

#### **4. CONFIDENTIALITY; AUTHORIZED END USER DATA**

**4.1 Confidentiality.** This provision is subject to any obligations under the Texas Public Information Act, 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 Authorized End User includes non-public data provided by Authorized End User to Flock or collected by Flock via the Unit, including the Footage, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors built into the Units ("**Authorized End User Data**"). 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, 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 except as

required by law. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, such as when a car exits Agency's neighborhood, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by 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 or as required by applicable law, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Agency and Authorized End User hereby expressly grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the term hereof) to disclose the Authorized End User Data (inclusive of any Footage) to enable law enforcement monitoring against law enforcement hotlists as well as provide Footage search access to law enforcement for investigative purposes only. 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 Authorized End User Data.** As between Flock and Authorized End User, all right, title and interest in the Authorized End User Data, belong to and are retained solely by Authorized End User. Authorized End User hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to use the Authorized End User Data and perform all acts with respect to the Authorized End User Data as may be necessary for Flock to provide the Flock Services to Agency and Authorized End User, including without limitation the Support Services set forth in Section 2.9 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify and distribute the Authorized End User Data

as a part of the Aggregated Data (as defined in Section 4.4 below). This Agreement does not by itself make any Authorized End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion.

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

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

## **5. PAYMENT OF FEES**

**5.1 Fees** Customer shall pay the fees set fourth in the applicable order form based on the billing structure and payment terms as indicated in the Order Form.

**5.2 Changes to Fees.** Flock reserves the right to propose new charges and fees for any subsequent Renewal Term, upon sixty (60) days' written notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email). 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, in order to receive an adjustment or credit. Inquiries should be directed to Flock's Agency support department at Billing@FlockSafety.com. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

**5.3 Invoicing, Late Fees; Taxes.** Flock may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Flock forty-five (45) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection, and may result in immediate termination of Service.

## **6. TERM AND TERMINATION**

**6.1 a Falcon Term.** Subject to earlier termination as provided below, the initial term of this Agreement shall be for the period of time set forth on the Order Form (the "**Initial Term**"). The Term shall commence upon first installation and validation of a Unit. Upon commencement of the Initial Term or any subsequent Renewal Term, Flock shall notify Agency in writing (email is acceptable) of the commencement date of the then-current term. *Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms for the length set forth on the Order Form (each, a "**Renewal Term**", and together with the Initial Term, the "**Service Term**") unless either party gives the other party notice of non-renewal at least ten (10) days prior to the end of the then-current term.*

**6.2 Intentionally Omitted.**

**6.3 Termination.** In the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement prior to the end of the Service Term by giving thirty (30) days prior written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching party has cured the



breach prior to the expiration of such thirty (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.** For the Term of this Agreement, Flock will provide Agency with complimentary access to 'hot-list' alerts, which may include 'hot tags', stolen vehicles, Amber Alerts, etc. ("**No-Fee Term**"). In the event a Non-Agency End User grants Authorized End User access to Footage and/or Notifications from a Non-Agency End User Unit, Authorized End User will have access to Non-Agency End User Footage and/or Notifications until deletion, subject to the thirty (30) day retention policy. Non-Agency End Users and Flock may, in their sole discretion, leave access open. The No-Fee Term will survive the Term of this Agreement. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days' notice.

**6.6 Survival.** The following Sections will survive termination: 2.4, 2.5, 3, 4, 5 (with respect to any accrued rights to payment), 6.5, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 10.5.7.

#### **REMEDY; WARRANTY AND DISCLAIMER**

**7.1 Remedy.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a "**Defect**"), Agency or Authorized End User must notify Flock's technical support as described in Section 2.9 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 Unit provided that such inspection and test shall occur within seventy-two (72) hours after Agency or Authorized End User notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Unit at no additional cost. In the event that a Unit is lost, stolen, or damaged, Agency may request that Flock replace the Unit at a fee according to the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Units, however, Agency understands

and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Units and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Hardware.

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

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

**7.4 Disclaimer.** THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE 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 AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE

STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF TEXAS.

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

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

## **8. LIMITATION OF LIABILITY; 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 FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; OR (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE GENERAL AGGREGATE POLICY LIMIT FOR FLOCK'S COMMERCIAL GENERAL LIABILITY INSURANCE, TOTALING ONE MILLION DOLLARS

(\$1,000,000.00) AS SHOWN ON FLOCK'S CERTIFICATE OF INSURANCE, ATTACHED HERETO AS EXHIBIT "A.". IN THE EVENT OF AN EMERGENCY, AGENCY SHOULD CONTACT 911 AND SHOULD NOT RELY ON THE SERVICES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE OF TEXAS.

**8.2 Additional No-Fee Term Requirements.** IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.5 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE.

**8.3 Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties.

**8.4 Indemnity.** To the extent permitted by Texas law, Flock hereby agrees to indemnify and hold harmless Agency against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any and all claims, losses, damages, costs, expenses, liabilities, or obligations (collectively, "*Claims*") arising out of or in any way connected with or alleged to be connected with any activity of Flock under this Agreement, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.2 of this Agreement.

## **9. RECORD RETENTION**

**9.1 Data Preservation.** The Authorized End User shall be responsible for storing any Authorized End User Data in compliance with all applicable local, state and federal laws, regulations, policies and ordinances and its associated record retention schedules.

## 10. MISCELLANEOUS

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

10.2 **Assignment.** This Agreement is not assignable, transferable or sublicensable by Agency except with Flock's prior written consent. Agency may transfer and assign any of its rights and obligations, in whole or in part, under this agreement to Authorized End User upon provision of written notice to Flock.

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

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

10.5 **Governing Law; Venue.** This Agreement shall be governed by the laws of the State of Texas without regard to its conflict of laws provisions. To the extent that the arbitration language below does not apply, the federal and state courts sitting in the State of Texas will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this Agreement. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement. Any dispute arising out of, in connection with, or in relation to this Agreement or the making of validity thereof or its interpretation or any breach thereof shall be determined and settled by arbitration in Texas by a sole arbitrator pursuant to the rules and regulations then obtaining of the American Arbitration Association and any award rendered therein shall be final and conclusive upon the parties, and a judgment thereon may be entered in the

highest court of the forum, state or federal, having jurisdiction. The service of any notice, process, motion or other document in connection with an arbitration award under this Agreement or for the enforcement of an arbitration award hereunder may be effectuated by either personal service or by certified or registered mail to the respective addresses provided herein.

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

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

**10.8 Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated Sections.**10.10 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

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

10.11 **Compliance With Laws Regarding Contracts with Certain Companies Pursuant to Chapters 2252, 2271 and 2274, Texas Government Code.** By signing and entering into this Agreement, Flock verifies, pursuant to Chapter 2271 and Chapter 2274 (as added by Senate Bill 13, 87th Legislature Regular Session) of the Texas Government Code, it does not boycott Israel or boycott energy companies and will not boycott Israel or boycott energy companies during the term of this Agreement. “Boycott Israel” has the meaning assigned by Section 808.001, Texas Government Code. “Boycott energy company” has the meaning assigned by Section 809.001, Texas Government Code.

By signing and entering into this Agreement, Flock verifies, pursuant to Chapter 2274 (as added by Senate Bill 19, 87th Legislature Regular Session) of the Texas Government Code, that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. “Discriminate against a firearm entity or firearm trade association” has the meaning assigned by Section 2274.001(3), Texas Government Code.

Flock hereby represents and warrants that at the time of this Agreement neither Flock, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Flock: (i) engages in business with Iran, Sudan, or any foreign terrorist organization pursuant to Subchapter F of Chapter 2252 of the Texas Government Code; or (ii) is a company listed by the Texas Comptroller pursuant to Section 2252.153 of the Texas Government Code. The term “foreign terrorist organization” has the meaning assigned to such term pursuant to Section 2252.151 of the Texas Government Code.

If under this Agreement, Flock is granted direct or remote access to the control of critical infrastructure, excluding access specifically allowed for product warranty and support, Flock verifies, pursuant to Chapter 2274 of the Texas Government Code (as added by Senate Bill 2116, 87th Legislature Regular Session), that neither Flock, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or

affiliate of Flock, nor any of its sub-contractors (i) is owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia or any designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, of any designated country; and (ii) is headquartered in China, Iran, North Korea, Russia or a designated country. The term “designated country” means a country designated by the Governor as a threat to critical infrastructure under Section 113.003 of the Texas Business & Commerce Code. The term “critical infrastructure” means a communication infrastructure system, cyber security system, electric grid, hazardous waste treatment system, or water treatment facility.



EXHIBIT A

CERTIFICATE OF INSURANCE