



4800 Ashford Dunwoody Road
 Dunwoody, Georgia 30338
 dunwoodyga.gov | 678.382.6700

MEMORANDUM

To: Mayor and City Council
From: Billy Grogan, Chief of Police
Date: July 27, 2020

Subject: Approval of Flock Group, Inc. Additional Services Agreement to Lease Additional LPRs and Security Cameras in Parks

DESCRIPTION

This additional services agreement will add 6 LPRs and 20 security cameras to City of Dunwoody Park properties through a monthly lease program.

BACKGROUND

On May 21, 2018, the City Council approved a contract to install video security cameras at Pernoshal Park, Georgetown Park, and a portion of the trail system between Pernoshal Park and Brook Run Park.

At the time of that approval, the Council made it clear that you wanted to provide similar video coverage in other park properties in the future.

The Dunwoody Police Department has completed a thorough review of the LPR and security camera needs in our park system. Recently, two baseball fields opened next to Brook Run Park. In 2019, the City of Dunwoody acquired the Waterford Pool & Tennis facility. As part of that agreement, the City agreed to install an LPR camera. More recently, construction was completed at Brook Run Park, which added additional amenities and a new entrance. We have worked closely with Brent Walker in the development of this proposal. In addition, we have discussed all options with our IT Department.

In December of 2019, the department entered into a Services Agreement with Flock Group, Inc. This Services Agreement is a lease for 20 License Plate Reader (LPR) cameras that are deployed throughout Dunwoody. Flock Group, Inc. is responsible for all installations, maintenance, upkeep and replacement of the LPRs.

Denis Shortal Mayor
 Eric Linton, ICMA-CM City Manager
 Sharon Lowery, CMC City Clerk

Pam Tallmadge City Council Post 1
 Jim Riticher City Council Post 2
 Tom Lambert City Council Post 3

Terry Nall City Council Post 4
 Lynn Deutsch City Council Post 5
 John Heneghan City Council Post 6



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The Additional Services Agreement in this proposal includes four LPR cameras at the following locations:

1. Dunwoody Nature Center
2. Brook Run Park Entrances (2) (Replacing old system)
3. Waterford Pool & Tennis (Will be placed near the entrance of subdivision)
4. Barclay Drive (2) (Will be placed near both ends providing coverage for baseball fields and new entrance at Brook Run Park)

The Additional Services Agreement in this proposal include 20 Owl security cameras at the following locations:

1. Baseball Fields
2. Brook Run Park (7)
3. Windwood Hollow Park (2)
4. Waterford Pool & Tennis
5. Dunwoody Nature Center
6. Dunwoody Library (3)
7. Old Austin Elementary Site (2)
8. Georgetown Park (2)
9. Pernoshal Park

The cost per month for this lease is \$6,000 for a total of \$72,000 a year. In the Dunwoody Police Department Capital Projects Fund, there is \$70,416 left over from a Fixed LPR & Mobile LPR project and \$76,924 left over from a Surveillance System project.

RECOMMENDATION

Staff recommends that the City Council approve the Additional Services Agreement with Flock Group, Inc. and use the funds leftover from the capital projects mentioned above as the source for the funding.

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FLOCK GROUP INC. ADDITIONAL SERVICES AGREEMENT

This Agreement combined with the existing agreement referenced in **Exhibit A** describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Customer**”) (each of Flock and Customer, a ”**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the terms of the previously executed agreement (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.

This additional services Agreement will be effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Customer: Dunwoody Police Department	Contact: Patrick Kreig
4800 Ashford Dunwoody Road	678.382.6908
Address: Dunwoody, GA 30338	Phone: Patrick.Krieg@dunwoodyga.gov
	E-Mail:
Additional usage Fees: \$6000 per Month (the “Payment Period”)	Initial Term: 12 Months
Number of additional Cameras: 20 Owls and 6 Falcons	Renewal Term: 12 Months
Installation Fee (one-time) \$0	
Pole Fee (one-time) \$0	

Flock Group Inc	Customer:
By:	By:
Name: Garrett Langley	Name: Billy Grogan
Title: CEO	Title: Chief of Police
Date: 07/27/2020	Date:

EXHIBIT A

This agreement is governed by the terms as set out in this attached agreement that has been previously executed by both parties.

EXHIBIT B

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Flock Safety Proposal						
Site	Falcon LPR		Owl		Site Totals	
	#	\$ Monthly	#	\$ Monthly	#	\$ Monthly
Austin Elementary	0	\$0	2	\$500	2	\$500
Brook Run Park	2	\$333	7	\$1,750	9	\$2,083
Brook Run Ball Field	2	\$333	1	\$250	3	\$583
Donald-Bannister Farm	0	\$0	0	\$0	0	\$0
Dunwoody Library	0	\$0	3	\$750	3	\$750
Dunwoody Nature Center	1	\$167	1	\$250	2	\$417
Georgetown Park	0	\$0	2	\$500	2	\$500
Perimeter Center East Park	0	\$0	0	\$0	0	\$0
Pernoshol Park	0	\$0	1	\$250	1	\$250
Vernon Oaks Park	0	\$0	0	\$0	0	\$0
Waterford Pool & Tennis	1	\$167	1	\$250	2	\$417
Windwood Hollow Park	0	\$0	2	\$500	2	\$500
Total (month)	6	\$1,000	20	\$5,000	26	\$6,000
Total (annual)						\$72,000

Terms of Service for Flock Safety

1. DEFINITIONS

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

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

1.2 "**Customer Data**" will mean the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Content will include the Footage.

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 Customer in accordance with the terms of this Agreement.

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

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

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

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

of Work attached hereto.

1.9 "**Services**" means the provision, via the Web Interface, of Flock's software application for automatic license plate detection, searching image records, and sharing Footage.

1.10 "**Unit(s)**" shall mean the Hardware together with the Embedded Software.

1.11 "**Web Interface**" means the website(s) or application(s) through which Customer 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 Customer a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Service Term, solely for the Authorized End Users. The Footage will be available for Customer's designated administrator, listed on the Order Form, and any Authorized End Users to access via the Web Interface for 30 days. Authorized End Users will be required to sign up for an account, and select a password and user name ("**User ID**"). Flock will also provide Customer the Documentation to be used in accessing and using the Services. Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Customer, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User's use of the Services, and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, including without limitation using a third party to host the Web Interface which make the Services available to Customer and Authorized End Users. Flock will pass-through any warranties that Flock receives from its then current third party service provider to the extent that such warranties can be provided to Customer. SUCH WARRANTIES, AS PROVIDED AS HONORED BY SUCH THIRD PARTIES, ARE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND FLOCK'S SOLE AND EXCLUSIVE LIABILITY WITH REGARD TO SUCH THIRD PARTY SERVICES, INCLUDING WITHOUT LIMITATION HOSTING THE WEB INTERFACE. Customer 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 Customer from time to time.

Authorized End Users), revocable right to use the Embedded Software as installed on the Hardware by Flock; in each case, solely as necessary for Customer to use the Services.

2.3 Documentation License. Subject to the terms of this Agreement, Flock hereby grants to Customer a non-exclusive, non-transferable right and license to use the Documentation during the Service Term for Customer's internal purposes in connection with its use of the Services as contemplated herein.

2.4 Usage Restrictions. The purpose for usage of the equipment, the Services and support, and the Flock IP is solely to facilitate gathering evidence that could be used in a criminal investigation by the appropriate government agency and not for tracking activities that the system is not designed to capture ("Permitted Purpose"). Customer will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP, or attempt to do any of the foregoing, and Customer acknowledges that nothing in this Agreement will be construed to grant Customer 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; (vi) 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 Application IP; (vii) use the Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (viii) use the Services, support, equipment and the Flock IP for anything other than the Permitted Purpose; or (ix) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Customer's rights under Sections 2.1, 2.2, or 2.3.

2.5 Retained Rights; Ownership. As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion.

portion or all of the Flock IP if (i) Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; or (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 Customer to access the Flock IP (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 Customer (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 Application 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 Customer 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 Customer's direct actions or by the actions of parties associated with the Customer, the expiration of the 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 Customer's account that have been impacted.

2.7 Installation Services.

2.7.1 Designated Locations. Prior to performing the physical installation of the Units, Flock shall advise Customer on the location and positioning of the Units for optimal license plate image capture, as conditions and location allow. Flock and Customer must mutually agree on the location (mounting site or pole), position and angle of the Units (each Unit location so designated by Customer, a "**Designated Location**"). Flock shall have no liability to Customer resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Customer's delay in identifying the choices for Designated Locations, in ordering and/or in having the Designated Location ready for installation including having all electrical work preinstalled and permits ready. Designated Locations that are suggested by Flock and accepted by Customer without alteration will be known as Flock Designated Locations. After a deployment plan with Designated Locations and equipment has been agreed upon by both Flock and the Customer, any subsequent changes to the deployment plan ("**Reinstalls**") driven by a Customer's request will incur

equipment charges. These changes include but are not limited to camera re-positioning, adjusting of camera mounting, re-angling, camera replacement, changes to heights of poles, regardless of whether the need for Reinstalls relates to vandalism, weather, natural events, theft, lack of criminal activity in view, and the like.

2.7.2 Customer's Installation Obligations. Customer agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. "**Customer Installation Obligations**" include, to the extent required by the Deployment Plan, but are not limited to electrical work to provide a reliable source of 120V AC power that follow Flock guidelines and comply with local regulations if adequate solar exposure is not available. Customer is solely responsible for (i) any permits or associated costs and managing the permitting process; (ii) any federal, state or local taxes including property, license, privilege, sales, use, excise, gross receipts or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Hardware, its use, or (iii) any other services performed in connection with the installation of Hardware. Any fees payable to Flock do not include the foregoing. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Customer if Customer did not address them or a third party requires Flock to pay. Customer represents and warrants that it has all necessary right title and authority and hereby authorizes Flock to install the Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.7.3 Flock's Installation Obligations. The Hardware shall be installed in a workmanlike manner in accordance with Flock's standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are selected by Customer. Following the initial installation of the Hardware and any subsequent Reinstalls or maintenance operations, Flock's obligation to perform installation work shall cease; however, Flock will continue to monitor the performance of the Units and receive access to the Footage for a period of 3 business days for maintenance purposes. Customer can opt out of Flock's access in the preceding sentence, which would waive Flock's responsibility to ensure such action was successful. Customer understands and agrees that the Services will not function without the Hardware. Labor may be provided by Flock or a third party.

2.7.4 Security Interest. The Hardware shall remain the personal property of Flock and will be removed upon the termination or expiration of this Agreement. Customer agrees to perform all acts which may be necessary to assure the retention of title of the Hardware

thereof. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer'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. 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. Any additional expenses incurred by Flock as a result of the discovery or presence of hazardous material or hazardous conditions shall be the responsibility of Customer and shall be paid promptly upon billing.

2.9 Support Services. Subject to the payment of fees, Flock shall monitor the performance and of Services and may, from time to time, advise Customer on changes to the 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 Customer with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at hello@flocksafety.com. Flock will use commercially reasonable efforts to respond to requests for support.

2.10 Special Terms. From time to time, Flock may offer certain "Special Terms" related to guarantees, service and support which are indicated in the proposal and on the order form and will become part of this Agreement.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Customer Obligations. Customer agrees to provide Flock with accurate, complete, and updated registration information. Customer may not select as its User ID a name that Customer does not have the right to use, or another person's name with the intent to impersonate that person. Customer may not transfer its account to anyone else without prior written permission. Customer will not share its account or password with anyone, and must protect the security of its account and password. Customer is responsible for any activity associated with its account. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect

Customer facilities, as well as by means of assistance from Customer personnel, to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer 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 governing law of the state mentioned in Section 9.6, or if no state is mentioned in Section 9.6, by the law of the State of Georgia, Customer hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses, including without limitation costs and attorneys' fees, in connection with any claim or action that arises from an alleged violation of the foregoing, Customer's Installation Obligations, or otherwise from Customer's use of the Services, Hardware and any Software, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Customer'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; CUSTOMER DATA

4.1 Confidentiality. Each Party (the "**Receiving Party**") understands that the other Party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (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 Customer includes non-public data provided by Customer 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 ("**Customer 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, but in no event will a party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary

Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. For clarity, 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. Customer hereby expressly grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the term hereof) to disclose the Customer 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 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to use the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Flock to provide the Services to Customer, 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 Customer Data as a part of the Aggregated Data (as defined in Section 4.4 below). As between Flock and Customer, Customer is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. Flock will automatically delete Footage older than 30 days. Customer has a 30-day window to view, save and/or transmit Footage to a government agency prior to its deletion.

hereunder, Customer 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 Customer 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 Customer Data and data derived therefrom). Customer acknowledges that Flock will be compiling anonymized and/or aggregated data based on Customer Data input into the Services (the "**Aggregated Data**"). Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the term hereof) to 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. No rights or licenses are granted except as expressly set forth herein.

5. PAYMENT OF FEES

5.1 Fees. Customer will pay Flock the first Usage Fee, the Installation Fee and any Hardware Fee (defined on the Order Form, together the "Initial Fees") as set forth on the Order Form on or before the 7th day following the Effective Date of this Agreement. Flock is not obligated to commence the Installation Services unless and until the Initial Fees have been made and shall have no liability resulting from any delay related thereto. Customer shall pay the ongoing Usage Fees set forth on the Order Form with such Usage Fees due and payable thirty (30) days in advance of each Payment Period. All payments will be made by either ACH, check, or credit card. The first month of Services corresponding to the first Usage Fee payment will begin upon the first installation. For 10+-camera Customers where only some of the cameras are installed at the first installation and additional cameras will be installed later, pro rata Usage Fees corresponding to the then-installed cameras will be invoiced to customer immediately after installation and to the later camera installation(s) subsequently invoiced.

5.2 Changes to Fees. Flock reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term or any Renewal Term, upon sixty (60) days' notice prior to the end of such Initial Term or Renewal Term (as applicable) to Customer (which may be sent by email). If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than sixty

directed to Flock's customer support department. Customer acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Customer may have had as a result of such billing error.

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

6. TERM AND TERMINATION

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

6.2 Customer Satisfaction Guarantee. At any time during the agreed upon term, a customer not fully satisfied with the service or solution may self-elect to terminate their contract. Self-elected termination will result in a one-time fee of up to \$500 per camera to cover equipment removal costs. Upon self-elected termination, a refund will be provided, pro-rated for any fees paid for the remaining Term length set forth previously. Self-termination of the contract by the customer will be effective immediately. Flock will remove all equipment at own convenience upon termination. Advance notice will be provided.

6.3 Termination. In the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement prior to the end of the Service Term by giving thirty (30) days prior written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching party has cured the breach prior to the expiration of such thirty-day period. Either party may terminate this Agreement, without notice, (i) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings; (ii) upon the other party's making an assignment for the benefit of creditors, or (iii) upon the other party's dissolution or

termination.

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

6.5 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, and 8-9.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Hardware or Embedded Software (a "Defect"), Customer must first make commercially reasonable efforts to address the problem by contacting Flock's technical support as described in Section 2.9 above. If such efforts do not correct the Defect, Flock shall, or shall instruct one of its contractors to, in its sole discretion, repair or replace the Hardware or Embedded Software suffering from the Defect. Flock reserves the right 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 72 hours after Customer notifies the Flock of defect. Flock agrees to replace cameras at a fee according to the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer shall not be required to replace subsequently damaged or stolen units; however, Customer understands and agrees that functionality, including Footage, will be materially affected due to such subsequently damaged or stolen units and that Flock will have no liability to Customer regarding such affected functionality nor shall the Fees owed be impacted.

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

interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS CUSTOMER'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE HARDWARE AND/OR EMBEDDED SOFTWARE. THE FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND INSTALLATION SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6, OR IF NO STATE IS MENTIONED IN SECTION 9.6, BY THE LAW OF THE STATE OF GEORGIA.

7.5 Insurance. Flock and Customer 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.

8. 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 OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA 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 REASONABLE CONTROL; (D) FOR CRIME PREVENTION; OR (E) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID

RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT OF AN EMERGENCY, CUSTOMER SHOULD CONTACT 911 AND SHOULD NOT RELY ON THE SERVICES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6, OR IF NO STATE IS MENTIONED IN SECTION 9.6, BY THE LAW OF THE STATE OF GEORGIA.

9. MISCELLANEOUS

9.1 **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.

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

9.3 **Entire Agreement.** This Agreement together with the Order Form, the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>), and Deployment Plan 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.

9.4 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Flock in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

9.5 **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.

9.6 **Governing Law; Venue.** This Agreement shall be governed by the laws of the State of Georgia without regard to its conflict of laws provisions. Any dispute arising out of, in connection with, or in relation to this agreement or the making of validity thereof or its

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.

9.7 Publicity. Unless otherwise indicated on the Order Form, Flock has the right to reference and use Customer'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.

9.8 Export; US Government Customers. Customer 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.

CUSTOMER SERVICE

Questions concerning these Terms or other requests or questions should be directed to the contact point specified at the end of these Terms.

Flock Safety

hello@flocksafety.com

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Flock Safety: Owl

(Situation Awareness Camera)

Flock's Mission

Provide actionable evidence to help law enforcement solve crime

Flock's Product Vision

Deliver technology solutions that capture actionable evidence, then make it easy to search & take action on that evidence. This technology should be quick to deploy, easy to expand, and cost effective to allow for wide coverage and in turn protection for the overall community.

A license plate is still the most actionable evidence when working to build a case. However, there is additional evidence that an LPR doesn't capture, but is often needed to solve a crime.

The Owl

The Owl is a situational awareness camera that is focused on capturing non-license plate based evidence. The Owl leverages objective triggers (e.g. unexpected motion, hotlist hit, gunshot, etc.) to alert law enforcement that there is activity of interest in an area.

Seamless integration with the Flock Safety LPR (Falcon) allows for the use of the Owl in tandem with already deployed technology.

Price: \$250/camera/month

Functional Specs

- **Captures evidence to compliment LPR**
- **Send real time alerts based on object triggers**
 - **Today:** Unexpected Motion (object type and location), LPR Hotlist Alert
 - **Future:** Gunshot, Glass Breaking, etc.
- **7 days of evidence on camera**
- **Evidence accessed with case # or based on objective trigger**

Technical Specs

- **Image Capture**
 - Wide Angle of Capture
 - High Resolution @ 50 ft (effective 10X zoom)
 - Triggered by Motion Detection
 - Night Vision
- **Connectivity & Connectivity**
 - LTE Enabled
 - Solar or AC Power



ADDITIONAL PAGE " A "

to Purchase and Sale agreement



2019 Printing

This additional page is a continuation of Purchase and Sale Agreement dated 11/22/2019

for the Property known as 4565 Dellrose Drive and 2371 N. Peachtree Way, Dunwoody, GA 30338

- The parties acknowledge, understand and agree that the Buyer intends to utilize the Property as a public park ("Park"). At no time shall the Park shall contain more than twenty (20) parking spaces inclusive of handicap parking spaces and/or spaces required under the Americans with Disabilities Act ("ADA"). After the closing of the subject transaction ("Closing"), Buyer shall engage a design team to create a design of the Park. The design for the Park shall be similar to the design of Windwood Hollow Park located in the City of Dunwoody at 4885 Lakeside Drive ("Windwood Hollow Park") as of the date of this Agreement. The Buyer shall host a public meeting at the Park to gather input during the design process to insure that the Seller has an opportunity to provide input as to the design. Buyer shall be required to give at least two (2) weeks notice of the referenced meeting to Seller.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires the operating hours of the Park to begin no earlier than 7 am and run no later than dusk and a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires the operating hours of tennis courts located on the Property to begin no earlier than 7 am and run no later than 9 pm on any given day. Additionally, the limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that the lights on the tennis courts shall be used only from dusk until 9 pm on any given day. Notwithstanding the foregoing to the contrary, the Seller may request to the Buyer that the tennis court lights be turned off at a time prior to 9 pm. The Buyer shall fully review and consider such a request from Seller and take such action if deemed necessary in the discretion of Buyer. Further, the limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that Buyer shall keep safe as well as maintain and keep in good repair the Park and the Property with a quality equal to the quality of the Property, equipment and facilities that exist in Windwood Hollow Park as of the date of this Agreement.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that the Property shall contain no more than two (2) tennis courts and that the Atlanta Lawn Tennis Association, or any such similar group or association, shall not be permitted to use the tennis courts. Further, the limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that Buyer shall maintain and keep in good repair any tennis courts and related tennis court installations on the Property, including without limitation the lights, court surfacing and fencing for the tennis courts. Notwithstanding the foregoing to the contrary, beginning on the date that is ten (10) years from the Closing, Buyer shall have the right to remove tennis courts from the Park in the discretion of Buyer. Buyer hereby agrees to renovate the tennis courts within one (1) year of the Closing date.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that the Park/Property contain separate/different playgrounds for toddlers and older children, which playgrounds shall be similar in size, kind and quality to the respective playgrounds for such purposes in Windwood Hollow Park as of the date of this Agreement.
- Within 5 years from the Closing, the Buyer agrees to put in place on the Property a restroom similar in size, kind and quality to the restroom located in Windwood Hollow Park as of the date of this Agreement. The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that the Property shall contain the referenced restroom within the referenced timeframe.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that the Property shall contain pet waste disposal cans with bags, a water fountain and a book bin at the front of the Park similar to the book bin at Brooke Run Park located in the City of Dunwoody at 4770 North Peachtree Road.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that the Buyer shall not subdivide or sell the Property without the written approval of the Seller or Seller's successor entity. Provided, however, the Seller acknowledges that a portion of the Property around the pond shall be conveyed to the Kingsley Lake Community Association.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that the Buyer shall not host City-sponsored planned events or contain any playground equipment or attractions other than customary playground equipment similar to the playground equipment at Windwood Hollow Park as of the date of this Agreement without the written approval of the Seller, including without limitation a splash park, band, healer or anything that will attract too much traffic and attention. Notwithstanding the foregoing to the contrary, the Buyer shall be allowed to host a grand opening or ribbon cutting ceremony for the Park as well as events promoting upgrades to the tennis courts and/or playground equipment.
- The limited warranty deed executed at Closing conveying the Property shall contain a covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that the Buyer shall place and maintain in good condition and repair a "No Solicitation" sign by the front of the Park.
- The Buyer agrees to create walking paths within the Property/Park that connect the neighborhoods commonly known as Waterford II and Kingsley.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that signage for the Park shall only appear directly in front of the Park. The location of any Park signage must be approved in writing by the Seller.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that requires that the parking lot for the Park/Property shall be a gravel parking lot, with the exception of spots required by the ADA, set in a natural setting, similar to the parking lot located at the Donaldson-Bannister Farm property in the City of Dunwoody at 4831 Chamblee-Dunwoody Road as of the date of this Agreement.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that the Park/Property shall maintain current safety features and equipment as that term evolves including without limitation cameras and license plate readers.
- The limited warranty deed executed at Closing conveying the Property shall contain a perpetual covenant/condition/restriction that shall run with the land and bind the successors or assigns of the Buyer that Buyer shall neither offer any park pavilion at the Park for rent, or rent any park pavilion at the Park to any party. Use of any park pavilion at the Park shall be on a first-come, first-serve basis on a daily basis. Buyer shall not allow any park pavilion to be reserved for use by any party for any purpose ahead of a particular date/day. Notwithstanding the foregoing to the contrary, the Seller as well as Seller's successors or assigns shall have the right to reserve the park pavilion at the Park at no charge as many as six (6) times in a calendar year ahead of a particular date/day. Seller shall be entitled to so reserve the park pavilion as far ahead of a particular date/day as desired.
- Notwithstanding the above, the parties agree that it is not prudent or feasible due to the operational nature of the above covenants for said covenants to run with the land in perpetuity without the ability to modify the infrastructure or repurpose the property. Accordingly, the above covenants shall expire January 1, following the twentieth (20th) anniversary from the date of the Closing. Such provision shall be incorporated into the Limited Warranty Deed. Moreover, the portions of the covenants in Stipulations 7, 8, and 11, herein that require the approval or consent of the Seller shall automatically terminate should the seller fail to be maintained as an active corporation under the laws of the State of Georgia and such inactivity continues for six (6) consecutive months or longer.
- The Seller acknowledges that this Agreement shall be executed by the City Manager on behalf of the Buyer. However, such signature is subject to the ratification and approval of the Agreement by the City Council of Dunwoody, Georgia prior to this Agreement becoming a binding obligation of the City of Dunwoody.
- All of the items in this Agreement shall survive Closing.

Buyer's/Tenants Initials: *AB*

Seller's/Landlord's Initials: *TH-PWNA*

Selling/Leasing Broker's Initials: _____
(or Broker's Affiliated Licensee)

Listing Broker's Initials: *RB*
(or Broker's Affiliated Licensee)

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