

A G R E E M E N T

THIS AGREEMENT by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City” or “Client”) and **DRIVECAM, INC.**, a Delaware corporation, registered to do business in Colorado, whose address is 8911 Balboa Avenue, San Diego, CA 92123 (“Vendor” or “DriveCam”).

1. SOFTWARE LICENSE, SUPPORT AND MAINTENANCE TO BE PROVIDED AND SERVICES TO BE PERFORMED AND HARDWARE TO BE

DELIVERED: Vendor, under the general direction of, and in coordination with, the City’s Manager of Public Works or other designated supervisory personnel (the “Manager”) agrees to provide the software (the “Software”) and services (the “Managed Services”) described in the SERVICE OFFERING ADDENDUM-Managed Services, **Exhibit A**, and perform the support and maintenance services and other professional services described on attached Schedule 1 and Schedule 2 and provide the hardware described as 167 units of **VER-DC3P-0020/DriveCam 3 Plus Video Event Recorder – Cellular-CDMA** (each a “VER”) @\$95.00 each for a total of \$99,365.00 described in **Exhibit B**.

2. GRANT OF LICENSE; RESTRICTIONS:

A. Vendor hereby grants to City during the applicable subscription term a non-exclusive, nontransferable license to: (a) access and use the Software and Managed Services for Client’s internal fleet management purposes only, without the right to sublicense such rights, provided Client unconditionally agrees to access and use the Software and Managed Services strictly in accordance with the software and hardware related specifications DriveCam provides hereunder, which shall include the terms of use posted on the DriveCam Online[®] portal; and (b) use all intellectual property rights necessary to use the Software as authorized in subparagraph (a), subject to Exhibit A.

B. Title to and ownership of the Software will remain with Vendor. City will not reverse engineer or reverse compile any part of the Software without Vendor's prior written consent. City will not remove, obscure or deface any proprietary notice or legend contained in the Software or documentation without Vendor's prior written consent.

3. DELIVERY AND ACCEPTANCE:

A. Vendor shall provide the Managed Services and perform the installation services in accordance with Exhibit A (including Schedules 1 and 2 thereto).

B. If the City is not satisfied with the Vendor’s performance of the services described in Exhibit A, the City will so notify Vendor within thirty (30) days after Vendor’s performance thereof. Vendor will, at its own expense, re-perform the service within fifteen (15) days after receipt of City's notice of deficiency. With respect to installation services, the foregoing procedure will be repeated until City accepts or finally rejects the service in its sole discretion. In the event that City finally rejects any installation service, Vendor will refund to City all fees paid by City with respect to such service.

4. **TERM:** The term of the Agreement is from April 1, 2013 through March 31, 2015. The term shall automatically renew for up to three (3) additional successive one (1) year periods, unless written notice of non-renewal is received by the other party no later than sixty (60) days prior to the expiration of the then current term.

5. **COMPENSATION AND PAYMENT:**

A. **Fee:** The fee for the software and services and hardware described herein is \$212,851.29 (the "Hard Fee"), as further described in **Exhibit B**. DriveCam will honor the pricing set forth in **Exhibit B.1** for purchases of up to an additional 200 VERs and 200 subscriptions to Managed Services by the City in 2013 for a total amount of \$254,052 for all 200 units ("Soft Fee"). The Hard and Soft Fee shall be paid pursuant to the City's Prompt Payment Ordinance and in accordance with the schedule of delivered products and services.

B. **Reimbursement Expenses:** The fees specified above include all expenses, and no other expenses shall be separately reimbursed hereunder.

C. **Invoicing:** Vendor must submit an invoice which shall include the City contract number, clear identification of the deliverable that has been completed, and other information reasonably requested by the City. Payment on all uncontested amounts shall be made in accordance with the City's Prompt Payment Ordinance.

D. **Maximum Contract Liability:**

(i) Any other provision of this Agreement notwithstanding, in no event shall the City be liable for payment for services rendered and expenses incurred by Vendor under the terms of this Agreement for any amount in excess of the sum of **FOUR HUNDRED SIXTY-SIX THOUSAND NINE HUNDRED AND THREE DOLLARS AND twenty-nine cents. (\$466,903.29)**. Vendor acknowledges that any work performed by Vendor beyond that specifically authorized by the City is performed at Vendor's risk and without authorization under this Agreement.

(ii) It is understood and agreed that any payment obligation of the City hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Agreement, encumbered for the purpose of the Agreement and paid into the Treasury of the City. Vendor acknowledges that (a) the City does not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

6. **STATUS OF VENDOR:** It is understood and agreed that the status of Vendor shall be that of an independent Vendor and a person retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.2(C) of the Charter of the City; and it is not intended, nor shall it be construed, that Vendor or its

employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code or for any purpose whatsoever. Vendor agrees that during the term of this Agreement it shall fully coordinate all services that it has been directed to proceed upon and shall make every reasonable effort to fully coordinate all such services as directed by the Manager with any City agency, or any person or firm under contract with the City doing work which affects Vendor's work.

7. TERMINATION:

A. The City has the right to terminate this Agreement, with or without cause, on thirty (30) days written notice. However, nothing herein shall be construed as giving Vendor the right to perform services under this Agreement beyond the time when such services become unsatisfactory to the Manager.

B. If this Agreement is terminated by the City, Vendor shall be compensated for, and such compensation shall be limited to, (1) the sum of the amounts contained in invoices which it has submitted and which have been approved by the City; (2) the reasonable value to the City of the work which Vendor performed prior to the date of the termination notice, but which had not yet been approved for payment; and (3) the cost of any work which the Manager approves in writing which he determines is needed to accomplish an orderly termination of the work. The City shall be entitled to an immediate prorated refund of any prepaid fees for services not provided as of the date of termination.

C. Upon termination of this Agreement by the City, Vendor shall have no claim of any kind whatsoever against the City by reason of such termination or by reason of any act incidental thereto, except for compensation for work satisfactorily performed as described herein.

8. EXAMINATION OF RECORDS: Vendor agrees that any duly authorized representative of the City, including the City Auditor, shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any books, documents, papers and records of Vendor, involving transactions related to this Agreement. Such examination shall be limited to Vendor's normal business hours, at Vendor's premises, and upon reasonable prior notice to Vendor.

9. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any action by either Party hereunder constitute or be construed to be a waiver by the other Party of any breach of covenant or default which may then exist on the part of the Party alleged to be in breach, and the non-breaching Party's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to that Party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any other breach.

10. INSURANCE:

A. General Conditions: Vendor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Vendor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-”VIII or better. Each policy shall contain a valid provision or endorsement stating “Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior.” Additionally, Vendor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Vendor. Vendor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Vendor. The Vendor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

B. Proof of Insurance: Vendor shall provide a copy of this Agreement to its insurance agent or broker. Vendor may not commence services or work relating to the Agreement prior to placement of coverage. Vendor certifies that the certificate of insurance attached as **Exhibit C** preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City’s contract number be referenced on the Certificate. The City’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Vendor’s breach of this Agreement or of any of the City’s rights or remedies under this Agreement. The City’s Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

C. Additional Insureds: For Commercial General Liability, Auto Liability and Excess Liability/Umbrella, Vendor and sub-contractor’s insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

D. Waiver of Subrogation: For all coverages, Vendor’s insurer shall waive subrogation rights against the City.

E. Subcontractors and Sub-consultants: All subcontractors and sub-consultants (including independent Vendors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Vendor. Vendor shall include all such subcontractors as additional insured under its policies (with the exception of Workers’ Compensation) or shall ensure that all such subcontractors and sub-consultants maintain the

required coverages. Vendor agrees to provide proof of insurance for all such subcontractors and sub-consultants upon request by the City.

F. Workers' Compensation/Employer's Liability Insurance: Vendor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Vendor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Vendor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Vendor executes this Agreement.

G. Commercial General Liability: Vendor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

H. Business Automobile Liability: Vendor shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

I. Technology Errors & Omissions: Vendor shall maintain Technology Errors and Omissions insurance including network security, privacy liability and product failure coverage with limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate.

J. Additional Provisions:

(a) For Commercial General Liability and Excess Liability, the policies must provide the following:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs in excess of policy limits;
- (iii) A severability of interests, separation of insureds or cross liability provision; and
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(b) For claims-made coverage:

- (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier

(c) Vendor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below

the required per occurrence limit, the Vendor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

11. REPRESENTATION AND WARRANTY: Vendor represents and warrants that:

A. The Software will conform to applicable specifications, operate in substantial compliance with applicable documentation, and will be free from deficiencies and defects in materials, workmanship, design and/or performance;

B. all services will be performed by qualified personnel in a professional and workmanlike manner, consistent with industry standards;

C. all services will conform to applicable specifications and the Exhibits attached hereto;

D. it has the requisite ownership, rights and licenses to perform its obligations under this Agreement fully as contemplated hereby and to grant to the City all rights with respect to the software and services free and clear from any and all liens, adverse claims, encumbrances and interests of any third party;

E. there are no pending or threatened lawsuits, claims, disputes or actions: (i) alleging that any software or service infringes, violates or misappropriates any third party rights; or (ii) adversely affecting any software, service or supplier's ability to perform its obligations hereunder;

F. the Software will not violate, infringe, or misappropriate any patent, copyright, trademark, trade secret, or other intellectual property or proprietary right of any third party;

G. the Software will contain no malicious or disabling code that is intended to damage, destroy or destructively alter software, hardware, systems or data; and

H. the media on which all Software is furnished are and will be, under normal use, free from defects in materials and workmanship.

12. DEFENSE AND INDEMNIFICATION:

A. Vendor hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Vendor or its sub-contractors either passive or active,

irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

B. Vendor's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Vendor's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

C. Vendor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

D. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Vendor under the terms of this indemnification obligation. The Vendor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

E. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

F. Vendor will, at Vendor's expense, indemnify, defend and hold harmless the City, its officers, agents and employees from and against any loss, cost, expense or liability (including but not limited to attorney's fees and awarded damages) arising out of a claim that the Software, services, or their use by the City, infringe, violate or misappropriate a patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any third party. The City will promptly notify Vendor in writing of any claim and cooperate with Vendor and its legal counsel in the defense thereof. Vendor may in its discretion (i) contest, (ii) settle, (iii) procure for the City the right to continue using the Software, or (iv) modify or replace the infringing Software so that it no longer infringes (as long as the functionality and performance are not degraded as reasonably determined by the City). The City may participate in the defense of such action at its own expense. If Vendor concludes in its reasonable judgment that none of the foregoing options are commercially reasonable, then Vendor will refund a pro rata portion (based on a 5 year straight line depreciation running from City's final acceptance of the Software) of the Software license fee(s) paid by the City under this Agreement and reimburse the City for all reasonable expenses for removal and replacement of the Software.

G. IN NO EVENT WILL EITHER PARTY (WHICH IN DRIVECAM'S CASE INCLUDES ITS LICENSORS, SUPPLIERS, AND DISTRIBUTORS) BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, USE, OR COST OF SUBSTITUTE PROCUREMENT, INCURRED BY EITHER PARTY OR ANY THIRD-PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE. IN NO EVENT WILL DRIVECAM OR ITS LICENSORS, SUPPLIERS, OR DISTRIBUTORS BE LIABLE FOR ANY AMOUNTS EXCEED \$1,000,000.

13. COLORADO GOVERNMENTAL IMMUNITY ACT: The parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, et seq., C.R.S. (2003).

14. TAXES, CHARGES AND PENALTIES: The City shall not be liable for the payment of taxes, late charges or penalties of any nature other than the compensation stated herein, except for any additional amounts which the City may be required to pay under D.R.M.C. § 20-107 to § 20-115.

15. ASSIGNMENT: Vendor covenants and agrees that it will not assign or transfer its rights hereunder without first obtaining the written consent of the Manager. Any attempts by Vendor to assign or transfer its rights hereunder without such prior written consent of the Manager shall, at the option of said Manager, automatically terminate this Agreement and all rights of Vendor hereunder. Such consent may be granted or denied at the sole and absolute discretion of said Manager. A change in control of Vendor shall not constitute an assignment hereunder.

16. NO THIRD PARTY BENEFICIARY: It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and Vendor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreements. It is the express intention of the City and Vendor that any person other than the City or Vendor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

17. NO AUTHORITY TO BIND CITY TO CONTRACTS: Vendor has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be by the City, as required by Charter and ordinance.

18. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: This Agreement, including the exhibit attached hereto (each of which is specifically incorporated herein) is intended as the complete integration of all understandings between the parties. No prior contemporaneous or subsequent addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing, and executed in the same manner as this Agreement.

19. SEVERABILITY: The parties agree that if any provision of this Agreement or any portion thereof is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected.

20. CONFLICT OF INTEREST:

A. The parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein; and Vendor further

agrees not to hire or contract for services any employee or officer of the City which would be in violation of the Denver Revised Municipal Code, Chapter 2, Article IV, Code of Ethics, or Denver City Charter §§ 1.2.8, 1.2.9, and 1.2.12.

B. Vendor agrees that it will not engage in any transaction, activity or conduct which would result in a conflict of interest under this Agreement. Vendor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of Vendor by placing Vendor's own interests, or the interests of any party with whom Vendor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given Vendor written notice which describes the conflict. Vendor shall have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner which is acceptable to the City.

21. NOTICES: Notices concerning the termination of this Agreement, notices of alleged or actual violations of the terms or conditions of this Agreement, and other notices of similar importance shall be made:

By Vendor to: DRIVECAM, INC.
8911 Balboa Avenue
San Diego, CA 92123

And by the City to: Manager of Public Works
City and County of Denver
201 West Colfax Avenue, Dept. 608
Denver, Colorado 80202

22. DISPUTES: All disputes of whatever nature between the City and Vendor regarding this Agreement shall be resolved by administrative hearings pursuant to the procedure established by Denver Revised Municipal Code, § 56-106(b), et seq. For the purposes of that procedure, the City official rendering a final determination shall be the City representative identified in Paragraph 1 hereof.

23. GOVERNING LAW; VENUE: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted and/or promulgated pursuant thereto, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

24. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this Agreement, Vendor agrees not to refuse to hire, discharge,

promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and Vendor further agrees to insert the foregoing provision in all subcontracts hereunder.

25. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: Vendor shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City barring Vendor from City facilities or participating in City operations.

26. CONFIDENTIAL INFORMATION; OPEN RECORDS:

A. City Information: Vendor acknowledges and accepts that, in performance of all work under the terms of this Agreement, Vendor may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. Vendor agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to Vendor shall be held in confidence and used only in the performance of its obligations under this Agreement. Vendor shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent Vendor would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential", or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Vendor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

B. Use and protection of Proprietary Data or Confidential Information:

(i) Except as expressly provided by the terms of this Agreement, Vendor agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available any data, including Proprietary Data or confidential information or any part thereof to any other person, party or entity in any form of media for any purpose other than performing its obligations under this Agreement. Vendor further acknowledges that by providing data, Proprietary Data or confidential information, the City is not granting to Vendor any right or license to use such data except as provided in this Agreement. Vendor further agrees not to disclose or distribute to any other party, in whole or in part, the data, Proprietary Data or confidential information without written authorization from the Manager and will immediately notify the City if any information of the City is requested from the Vendor from a third party.

(ii) Vendor agrees, with respect to the Proprietary Data and confidential information, that: (1) Vendor shall not copy, recreate, reverse engineer or decompile such data, in whole or in part, unless authorized in writing by the Manager; (2) Vendor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; and (3) Vendor shall, upon the expiration or earlier termination of the Agreement,

destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City.

(iii) Vendor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted data received from, or on behalf of City in accordance with Vendor's standard data retention policies. It is the responsibility of the Vendor to ensure that all possible measures have been taken to secure the computers or any other storage devices used for City data. This includes industry accepted firewalls, up-to-date anti-virus software, controlled access to the physical location of the hardware itself.

(iv) As between DriveCam and Client, Client shall own the information, data and content captured by the Products in Client's possession ("**Data**"). The Data will be Client's Proprietary Information; provided that, DriveCam and its subcontractors shall have the right to use such Data in connection with performance hereunder and to improve and expand DriveCam's products and services. DriveCam shall have the right (which shall survive termination and expiration of this Agreement) to use and disclose the non-video and non-audio meta-data components of the Data for any purposes; provided that, DriveCam does not indicate to any third party that such components were provided by, obtained from, or associated with, the Client or Client's drivers. Such usage rights shall continue and survive destruction of any video clips to which such non-video and non-audio meta-data components relate.

(v) Client represents and warrants that (a) it has the necessary right and authority to disclose all data and information (including Data) disclosed or provided to DriveCam under this Agreement; (b) it has complied with all applicable laws and regulations regarding such disclosures; and (c) any Data disclosed by Client, as well as any other data, content, or materials used, created, or stored in DriveCam servers, by Client in the course of remotely accessing the Data will comply with all applicable laws, and will not infringe the copyright, trade secret, privacy, publicity, or other rights of any third party.

C. Employees and Sub-Contractor: Vendor will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of Vendor under this Agreement shall survive the expiration or earlier termination of this Agreement. Vendor shall not disclose Proprietary Data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement.

D. Disclaimer: Notwithstanding any other provision of this Agreement, the City is furnishing Proprietary Data and confidential information on an "as is" basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of the Proprietary Data or confidential information. Vendor is hereby advised to verify its work. The City assumes no liability for any errors or omissions herein. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If discrepancies are found, Vendor agrees to contact the City

immediately.

E. Vendor's Information: The City shall endeavor, to the extent provided by law, to comply with the confidentiality provisions set out in this Section 26, provided, however, that The City understands and agrees that the Vendor software and documentation including, but not limited to, the Source Code, Object Code, the Interface Requirements Document(s) Acceptance Test Procedures, the Statement of Work, the software design, structure and organization, software screens, the user interface and the engineering know-how implemented in the software (collectively "Vendor Confidential Information") constitute the valuable properties and trade secrets of Vendor, embodying substantial creative efforts which are secret, confidential, and not generally known by the public, and which secure to Vendor a competitive advantage. The City agrees during the term of this Agreement and the license granted hereunder, and thereafter, to hold the Vendor Confidential Information including any copies thereof and any documentation related thereto, in strict confidence and to not permit any person or entity to obtain access to it except as required for the City's exercise of the license rights granted hereunder, and except as required by the parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, et seq., C.R.S. (2003). In the event of a request to the City for disclosure of such information, the City shall advise Vendor of such request in order to give Vendor the opportunity to object to the disclosure of any of its documents which it marked as proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and Vendor agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material or waive the same. Vendor further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of Vendor's intervention to protect and assert its claim of privilege against disclosure under this Article including but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

27. LEGAL AUTHORITY:

A. Vendor assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken to enter into this Agreement.

B. The person signing and executing this Agreement on behalf of Vendor does hereby warrant and guarantee that he has been fully authorized by Vendor to execute this Agreement on behalf of Vendor and to validly and legally bind Vendor to all the terms, performances and provisions herein set forth.

C. The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either Vendor or the person signing the Agreement to enter into this Agreement.

28. NO CONSTRUCTION AGAINST DRAFTING PARTY: Each of the Parties acknowledge that they and their respective counsel have had the opportunity to review this

Agreement, and that this Agreement shall not be construed against any party merely because this Agreement or any of its provisions have been prepared by a particular party.

29. ORDER OF PRECEDENCE: In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

30. SURVIVAL OF CERTAIN PROVISIONS: The parties understand and agree that all terms and conditions of this Agreement together with the exhibits and attachments hereto which, by reasonable implication, contemplate continued performance or compliance beyond the termination of this Agreement (by expiration of the term or otherwise) shall survive such termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the Vendor's obligations for the provision of insurance and to indemnify the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

31. INUREMENT: The rights and obligations of the parties herein set forth shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns permitted under this Agreement.

32. TIME IS OF THE ESSENCE: The parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

33. FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, unreasonable delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unreasonable unavailability of equipment or software from suppliers, default of a subcontractor or vendor (if such default arises out of causes beyond their reasonable control), the actions or omissions of the other party or its officers, directors, employees, agents, Vendors or elected officials and/or other substantially similar occurrences beyond the party's reasonable control ("Excusable Delay") herein. In the event of any such Excusable Delay, time for performance shall be extended for a period of time as may be reasonably necessary to compensate for such delay.

34. PARAGRAPH HEADINGS: The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

35. CITY EXECUTION OF AGREEMENT: This Agreement is expressly subject to and shall not be or become effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver.

36. COUNTERPARTS OF THIS AGREEMENT: This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.

37. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Vendor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the

manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Exhibit A- SERVICE OFFERING ADDENDUM-Managed Services

Schedule 1 and Schedule 2 Support, Maintenance and other Professional Services

Exhibit B Hardware and Pricing Details

Exhibit B.1 Optional Purchase Hardware and Pricing Details

Exhibit C-Certificate of Insurance

Exhibit A

SERVICE OFFERING ADDENDUM

(Managed Services)

1. CERTAIN DEFINITIONS

“**Managed Services**” means the analysis and reporting by DriveCam of driving events captured by the DriveCam products installed in Client’s vehicles (the “**Products**”) and certain other services to be provided by DriveCam hereunder relating to Client’s access and use of the Software, as more fully described in Section 4 of this Addendum.

“**Subscription Term**” means, with respect to a Product, the duration of time set forth on the applicable order for which the Client has purchased a subscription to the Managed Services.

“**Support and Maintenance**” means the support and maintenance services described in Schedule 2 hereto.

2. LICENSE

2.1 Updates. Any updates, modifications, enhancements or new versions of the Software or Managed Services provided or made available to Client by DriveCam, in accordance with this Agreement, shall be considered Software and Managed Services subject to this Agreement. DriveCam shall be entitled at any time and without liability to improve, modify, suspend, test, maintain or repair the systems used by DriveCam to provide the Managed Services in whole or in part and/or any other services rendered under this Agreement even if this requires temporarily suspending the operation of the Managed Services, provided that DriveCam shall use reasonable efforts to minimize all forms of disruption resulting therefrom.

2.2 License Term. Licenses are purchased and apply on a per VER basis for the applicable subscription period (the “**License Term**”). The initial License Term shall be the same as the Subscription Term (set forth in Section 3 of this Addendum) unless otherwise specified in the applicable order.

2.3 Restrictions on Use. Except as otherwise expressly provided in this Agreement, Client agrees to: (a) only use the Software and Managed Services in the manner, and for the purposes, expressly specified in this Agreement; (b) not decompile, disassemble analyze or otherwise examine the Software and/or Managed Services for the purpose of reverse engineering, or facilitate or permit a third party to do so (except to the extent this restriction is expressly prohibited by applicable law); (c) not attempt to access any systems, programs or data of DriveCam that are not licensed under this Agreement; (d) not copy, reproduce, republish, upload, post, transmit or distribute the Software or Managed Services, or any portion thereof, or facilitate or permit a third party to do so; and (e) not use any device or software to interfere or attempt to interfere with the proper operation of the Software and Managed Services. DriveCam may immediately terminate this Agreement in the event that Client breaches the provisions of this Section 2.3.

3. SUBSCRIPTION TERM; EARLY TERMINATION OF SERVICES

With respect to all of the Products ordered under the same order, the Subscription Term shall commence on the first day of the second calendar month following shipment of the applicable Products and shall last for the duration of time set forth on the applicable order. This provision shall survive termination or expiration of the Agreement for any reason.

4. MANAGED SERVICES

4.1 Description of Services. DriveCam shall provide Client remote access to DriveCam’s data center via in-bound Internet connectivity, providing access to Client’s Data and the hosted Software applications licensed hereunder in order to view risky driving behaviors captured by Client’s VERs and the related risk assessments performed by DriveCam certified driving behavior analysts. Extra charges shall apply for manually triggered events and real-time cellular downloads. DriveCam shall provide Client monthly and weekly reports (by driver, site and company) including feedback on Client driving. DriveCam shall provide remote program management services whereby DriveCam shall: (i) monitor the operational status of the VERs, event movers and daily flow of driving events from the Client’s site to DriveCam’s server, and initiate appropriate corrective action; (ii) monitor Client’s Managed Services’ key performance indicators, including but not limited to coaching timeliness and effectiveness; and (iii) provide executive-level guidance and consulting. DriveCam retains the right, in its sole discretion, to adjust the VER settings, including, but not limited, to clip length, clip compression and sensitivity of VER accelerometers, as determined by DriveCam to be necessary to provide the Services hereunder.

4.2 Not applicable.

4.3 Managed Services; Suspension. Subject to Client’s compliance with the terms and conditions of the Agreement and this Addendum, DriveCam shall use commercially reasonable efforts to provide the Managed Services to Client. If Client fails to pay any amounts due hereunder, DriveCam may immediately suspend the Managed Services; upon payment by Client of all such delinquent amounts DriveCam will re-institute the Managed Services.

4.4 Remote Access to Results. Subject to Client’s compliance with the terms and conditions of the Agreement and this Addendum, Client shall have remote in-bound Internet access to the Data which are hosted on computer hardware servers controlled by DriveCam and located at DriveCam’s Managed Services facilities (“**DriveCam Servers**”). To access such Data remotely, Client will be assigned a reasonable number of user accounts and related user identification numbers (collectively, “**User IDs**”) and passwords. Client may allow any End User to remotely access such Data; subject to such End User agreeing to (by “clicking through” on-line or other suitable means determined by DriveCam) the terms of use in a form reasonably designated by DriveCam. Client may have only as many End Users as the number of User IDs activated at any one time. No User ID

may be shared by more than one End User. Client acknowledges that DriveCam may track the number of active User IDs and to disallow use by more than the authorized number of User IDs.

4.5 Client Assistance and Action Items. Client acknowledges and agrees that DriveCam's provision of the Managed Services and Data depends on the full and timely cooperation of the Client and its employees, contractors and agents. Client shall, and shall use commercially reasonable efforts to cause its employees, contractors and agents to provide, in a timely manner and at no cost to DriveCam, assistance, cooperation, information, data, and feedback to enable DriveCam to perform its obligations hereunder as well as access (including, without limitation, remote access) to Client personnel, facilities, vehicles and the Products as reasonably necessary for DriveCam to provide the Managed Services. Client acknowledges that DriveCam's ability to perform its obligations under this Addendum in a timely fashion may be affected if Client does not comply with its obligations under this section.

5. IMPLEMENTATION AND TRAINING SERVICES

Implementation and training services are not included in a Managed Services subscription, and additional fees (including provisioning fees) shall apply for such services. If implementation services are purchased under an order, DriveCam shall use commercially reasonable efforts to install the Products as provided in Schedule 1 hereto. If training services are purchased under an order, DriveCam shall use commercially reasonable efforts to provide Client with reasonable direction and initial training with respect to the features, functionality, use and operation of the Products and the Managed Services. Client shall use commercially reasonable efforts to ensure that all personnel using any Products and/or the Managed Services receive appropriate training, are familiar with the Products and the Managed Services, and are fully qualified to carry out their duties and responsibilities.

6. SUPPORT AND MAINTENANCE SERVICES

DriveCam shall use commercially reasonable efforts to provide the Support and Maintenance services as provided in Schedule 2 hereto during the Subscription Term.

7. SERVICE REQUIREMENTS

Client is solely responsible for acquiring, servicing, maintaining and updating all equipment, computers, software and communications services (such as charges for Internet connection) not owned or operated by or on behalf of DriveCam, that allow Client to access and use the Software and Managed Services, and for all expenses relating thereto (plus any applicable taxes). Client agrees to access and use the Software and Managed Services in accordance with any and all operating instructions or procedures that may be issued by DriveCam, and amended by DriveCam from time to time. DriveCam does not make any commitments with respect to use or performance of the Software and Managed Services with browsers other than Firefox 2.0 or higher or Microsoft Internet Explorer 6.0 or higher. Client understands and agrees that: minimum connectivity to the Internet must be at least 128Kb/s both into and out of every site that will be managed; most residential cable/digital subscriber line (DSL) connections are typically asymmetric and will not support Managed Services; and a symmetric class of service is required.

8. LIMITED WARRANTY

8.1 Product Warranty. For a period of (i) two (2) years after the date of shipment with respect to the Hardware and (ii) ninety (90)

days after commencement of the applicable Subscription Term with respect to the Software (each a "**Warranty Period**"), DriveCam warrants to Client that the Products, as delivered by DriveCam to Client, will substantially conform to the Documentation (excluding products not manufactured by DriveCam). The Warranty Period shall be extended for the duration of any period for which Client purchases an extended warranty from DriveCam as specified in an applicable order. The foregoing warranties shall not apply if Client fails to notify DriveCam in writing of such defects prior to the expiration of the Warranty Period, if the defect is not reproducible, or the defect is caused by: (a) Client's negligence or misuse, or events beyond DriveCam's reasonable control; (b) to the extent performed by Client or its representatives, the failure to install, maintain or use the Product in accordance with the Documentation and DriveCam's instructions; (c) except as authorized by DriveCam in writing, alterations to the Product made by anyone other than DriveCam or its representatives; (d) except as authorized by DriveCam in writing, any attempt to service the Product other than by DriveCam or its representatives; or (e) third party software, hardware, or materials not approved or supplied by DriveCam. DriveCam shall not be responsible for any of Client's or a third party's software, information or data contained in, stored on, or integrated with any Hardware returned to DriveCam pursuant to the foregoing warranty. DriveCam's and its suppliers' sole liability, and Client's exclusive remedy, under this Section 8.1 shall be, at DriveCam's option: (I) to use commercially reasonable efforts to correct any reproducible defects identified by Client in writing during the Warranty Period which renders the Product non-conforming, (II) to replace the defective Product (with either a new or refurbished product), or (III) to accept return of the defective Product from Client and provide Client with a pro rata refund based on the remaining portion of the Warranty Period. Replacement Products will assume the greater of the balance of the original Warranty Period or ninety (90) days. With respect to any hardware or software provided hereunder that is not manufactured by DriveCam, Client acknowledges and agrees that its use and possession of such product shall be governed by the terms of such product manufacturer's warranty, if any, and Client agrees to look solely to the manufacturer with respect to all applicable claims. The right to enforce all warranties made by any such manufacturer are hereby, to the extent DriveCam has the right, assigned to Client. Maintenance and support for VERs not covered by the Warranty Period shall be provided by DriveCam in its discretion and in accordance with its standard practices and procedures; such maintenance and support will be subject to DriveCam's then-current maintenance and support fees.

8.2 Warranty Claims. To make a return under the warranties in this Section 8, Client must first contact DriveCam Technical Support and assist in a reasonable troubleshooting effort to restore the product to service. Upon a failure determination by DriveCam Technical Support, Client must request a Return Material Authorization number (RMA) within the Warranty Period. Upon approval of the request, DriveCam will provide Client an RMA number and a prepaid return label. For all warranty returns, Client must use the return label provided by DriveCam to send the product to DriveCam, packaged appropriately for safe shipment. DriveCam shall pay all freight charges for shipment to Client of any replacement Product covered by these warranty provisions.

8.3 Service Warranty. DriveCam warrants to the Client that any Services to be performed hereunder shall be performed in a professional and workmanlike manner. DriveCam's and its suppliers' sole liability, and Client's exclusive remedy, under this Section 8.3 shall be for DriveCam to use commercially reasonable efforts to re-perform the Services. With respect to installation services provided hereunder, the foregoing warranty shall apply solely for the one (1)-year period after installation. DriveCam shall

retain sole control over the manner and means by which it performs its obligations hereunder, and DriveCam shall be entitled to subcontract (in whole or in part) DriveCam's responsibilities under this Agreement to a third party of DriveCam's choice, but DriveCam shall remain responsible for DriveCam's subcontractor's actions in carrying out DriveCam's obligations under this Agreement.

8.4 Disclaimer of Warranty. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 8, DRIVECAM AND ITS LICENSORS, SUPPLIERS, AND DISTRIBUTORS DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. DRIVECAM AND ITS

LICENSORS, SUPPLIERS, AND DISTRIBUTORS MAKE NO WARRANTY THAT THE SOFTWARE WILL WORK IN COMBINATION WITH ANY HARDWARE OR SOFTWARE PRODUCTS PROVIDED BY THIRD PARTIES, THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, THAT ALL DEFECTS IN THE SOFTWARE CAN BE CORRECTED, OR THAT ANY SPECIFIC RESULT OR OUTCOME WILL BE ACHIEVED BY UTILIZING THE PRODUCTS OR SERVICES. FURTHER, NEITHER DRIVECAM, ITS LICENSORS, SUPPLIERS, NOR DISTRIBUTORS MAKES ANY WARRANTY THAT ACCESS TO THE SERVICES OR ASSOCIATED NETWORK COVERAGE (E.G. WIRELESS NETWORK COVERAGE) WILL BE CONTINUOUS OR UNINTERRUPTED.

SCHEDULE 1
Implementation Services

1. SCOPE

To the extent specified in an applicable order, implementation services shall include the installation of VERs and Software, together with the set-up of infrastructure to support the Services, if applicable. Project managers from DriveCam and Client shall work together to establish and maintain the schedule for all implementation service activities.

2. DRIVECAM RESPONSIBILITIES

2.1 Hardware Installation. If an order specifies that DriveCam will provide Hardware installation with respect to Hardware purchased under the applicable order, DriveCam shall perform the following installation services (if applicable):

1. Provide onsite or remote Software installation and configuration on DriveCam provided or Client provided personal computers.
2. Provide wireless configuration services, cable installation, mounting and testing of wireless infrastructure.

2.2 Vehicle Hardware Installation. If an order specifies that DriveCam will provide vehicle Hardware installation with respect to Hardware purchased under the applicable order, DriveCam shall:

1. Provide vehicle installations with systems verification and/or training as specified in the order, using DriveCam approved installation standards and guidelines.
2. Provide replacement level vehicle installation training for Client, as requested.

3. CLIENT RESPONSIBILITIES

3.1 Project Administration. If an order specifies that DriveCam will provide vehicle Hardware installation with respect to Hardware purchased under the applicable order, Client shall (if applicable):

1. Assign appropriate personnel to work with DriveCam during the planning and execution phases of installation.
2. Ensure that access to facilities, equipment and vehicles is maintained throughout the installation schedule.
3. Provide communication of installation procedures to building management/lessor.
4. Provide DriveCam with necessary configuration and set up information prior to the installation start date.
5. Provide DriveCam with necessary site level deployment details prior to the release of Products for shipment.

3.2 Not applicable.

3.3 Vehicle Hardware Installation. If an order specifies that DriveCam will provide vehicle Hardware installation with respect to Hardware purchased under the applicable order, Client shall:

1. Make appropriate number of vehicles available each day per mutually agreed installation schedule.
2. Verify VER functionality on those Client installed vehicles through wireless components into DriveCam Online[®] database.
3. Provide installer with safe, designated installation area protected from environmental hazards.
4. Provide resources necessary to move vehicles to and from designated installation area, as required to support the installation schedule.

5. Provide installer with any client-required safety equipment during the installation
6. Approve the installation placement and technique on the initial VER for each major vehicle type (First Article Installation), and provide DriveCam authorization to proceed with installation of remaining VERs using the approved placement and technique.
7. Install and verify remaining vehicle Hardware into vehicles not available during scheduled DriveCam installation.

4. IMPLEMENTATION DELAYS

If the implementation schedule is delayed, changed, extended or rescheduled (in each case, with less than seven (7) days prior written notice to DriveCam) due to Client's request, Client's failure to provide DriveCam access to vehicles, facilities and/or necessary equipment or any other reason caused by Client, Client agrees to reimburse DriveCam for any costs (including labor costs, travel, food, lodging, extra shipping fees and other project specific costs) and cancellation fees incurred by DriveCam as a result of such delay. Such expenses shall include airfare costs for urgent travel in excess of DriveCam's standard \$500 travel fee, if applicable. If the implementation schedule change is caused by DriveCam or its third party installers, DriveCam shall adjust the commencement of the Subscription Term, as necessary, to reflect such change. Any and all reimbursable expenses need to be approved by the City in writing, prior to being incurred.

SCHEDULE 2
Support and Maintenance Services

1. SCOPE

Support and Maintenance includes support for the Software and Hardware, in accordance with the terms and conditions set forth below. For purposes of this Schedule, “**Hardware**” and “**Software**” refer only to hardware and software manufactured by DriveCam. Terms not otherwise defined in this Schedule shall have the meaning given to them in the Agreement.

2. SUPPORT HOURS AND METHODS

DriveCam shall use commercially reasonable efforts to provide the following support during DriveCam’s normal business hours (8 a.m. to 5 p.m. Pacific Time): answering of telephone calls at a toll-free customer support telephone number (866) 419-5861 and e-mail support at support@drivecam.com.

3. LIAISON

Client shall provide DriveCam in writing with the name(s) and contact information of Client’s technical personnel who will liaison with DriveCam regarding all technology-related matters. Client may change such liaison(s) upon written notice to DriveCam from time to time at reasonable intervals. DriveCam shall not be obligated to provide support to any person other than the designated liaison(s).

4. CLIENT RESPONSIBILITIES

Upon identification of a programming error in the Software, a malfunction in the Hardware, a problem in remotely accessing the Managed Services reports or data caused by DriveCam, or other problems with respect to DriveCam’s provision of Services or Hardware hereunder, Client shall promptly notify DriveCam of such problems and provide DriveCam with all information necessary for DriveCam to locate and duplicate the problem. Client agrees to provide DriveCam with reasonable access (including, without limitation, remote access) to all necessary Client personnel, facilities and equipment (including the Products) for the purpose of providing the support services hereunder as determined appropriate by the City..

5. SUPPORT

For any problem for which Client has given DriveCam notice under Section 4 of this Schedule, DriveCam (or its service

representative) shall, during DriveCam’s normal business hours, use commercially reasonable efforts to correct the problem, including providing a temporary workaround if one is available and repairing or replacing the malfunctioning Hardware or part.

6. EXCLUSIONS

6.1 Hardware. DriveCam shall not be obligated to provide such support services if the Hardware malfunction is not reproducible or is caused by (a) Client’s negligence or misuse, accident, fire, variation or interruption of electricity; (b) to the extent performed by Client or its representatives, failure to properly install, maintain or use the Hardware; (c) alterations made by anyone other than DriveCam or its representatives to the Hardware or the hardware or software that interfaces with the Hardware after installation; (d) any attempt to service the Hardware other than by DriveCam or its service representatives (including the addition or removal of any third party hardware, peripherals or software); or (e) any software, equipment, or materials not approved or supplied by DriveCam.

6.2 Software. DriveCam shall not be obligated to provide such support if the programming error in the Software is not reproducible or is caused by (a) Client’s failure to implement all updates to the Software provided to Client by DriveCam or use of a superseded version of the Software; (b) Client’s negligence or misuse or accident; (c) to the extent performed by Client or its representatives, failure to properly, install, maintain or use the Software; (d) alterations made by anyone other than DriveCam or its representatives to the Software or the Hardware or software that interfaces with the Software after installation; (e) any attempt to service the Software other than by DriveCam or its service representatives (including the addition or removal of any third party hardware, peripherals or software); (f) combination of the Software with any accessory, equipment, software or part not approved by or not supplied by DriveCam; or (g) third party software, equipment or materials not approved in writing or supplied by DriveCam.

Exhibits B and B.1

Hardware and Pricing Details

See attached quotes



DriveCam, Inc.
 8911 Balboa Ave
 San Diego, CA 92123
 Tel: 858.430.4000
 Fax: 858.380.3133

Prepared for / Bill To
 City & County of Denver
 Felix Espinoza
 (720) 865-3912
 felix.espinoza@denvergov.org

Quote Number: DC00002607
 Created Date: 04/08/2013
 Valid Until: 06/30/2013
 Prepared By: Michael MacComiskey
 Sales Rep: Michael MacComiskey
 Phone: (816) 730-1960
 Email: mmaccomiskey@drivecam.com

DriveCam Program Price Quote Purchase Option - GSA

Bill To
 City & County of Denver

Ship To

Purchase Option Proposal Summary

Number of Video Event Recorders (VERs) 167	Subscription Term (Months) 24
Number of Subscriptions 167	Subscription Cost (Annual) \$493.39
Year 1 Costs	
Hardware	\$99,365.00
Subscriptions	\$82,396.13
Implementation Services	\$29,582.60
Training	\$1,507.56
Total Year 1 Costs	\$212,851.29

Terms:

- Client agrees to purchase the subscriptions for the subscription term set forth above.
- Standard invoicing policy is as follows: Hardware, provisioning, implementation and training invoiced upon shipment. Subscriptions invoiced in advance per agreed billing period.
- State taxes, shipping and handling may apply.
- Unless a separate manuals pricing package is in place or Client has instructed DriveCam to turn the manuals feature off, manual events transferred to the DriveCam data center will be charged at \$0.99/event
- Subscription pricing is based on overnight upload of events. Customers that use "kill-switches" or other devices that prevent overnight upload of events will be required to utilize Real-Time Cellular Upload which is subject to additional fees.
- For any DriveCam installation purchased hereunder, fees are charged on a per VER installation basis, subject to a minimum fee of \$1000.00 per installation day. Client shall be responsible for ensuring vehicle and VER availability per the agreed installation schedule. No refunds shall apply for vehicle installations not completed during scheduled installation due to vehicle or VER unavailability. Additional fees may apply for return sites visits
- ELearning will be available to Client for two years from the date of ELearning purchase (invoice date). Individual eLearning user accounts will be activated upon Client request and remain active for six months from the date of activation. No refunds shall apply for unused eLearning services..
- All sales as a result of this quotation are subject to the terms and conditions of DriveCam's GSA 1T70 schedule, #GS-35F-0623S, which are incorporated herein by reference and all orders are subject to acceptance by DriveCam.

By signing below, Client agrees to purchase the Products and Services described in this Quote in accordance with the Terms:

Printed Name	Signature	PO# (Optional)
Title	Date	PO \$ Amount (Optional)



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Hardware (One-Time Cost)				
Part No	Description	Qty	Price	Amount
VER-DC3P-0020	DriveCam 3 Plus Video Event Recorder - Cellular CDMA	167	\$595.00	\$99,365.00
TOTAL				\$99,365.00

Installation Services and Accessories (One-Time Cost)*				
Part No	Description	Qty	Price	Amount
SRV-INS-0010	DriveCam Installation Per Unit - Standard Install	100	\$157.94	\$15,794.00
SRV-INS-0011	DriveCam Installation Per Unit - Complex Install (Waste/Transit)	67	\$205.80	\$13,788.60
TOTAL				\$29,582.60

* Any Installation fees listed herein are charged on a per VER installation basis, subject to a minimum fee of \$1000.00 per installation day. Client shall be responsible for ensuring vehicle and VER availability per the agreed installation schedule. No refunds shall apply for vehicle installations not completed during scheduled installation due to vehicle or VER unavailability. Additional fees may apply for return sites visits.

Implementation Assumptions: VER Quantity: 167 Installation Model: Tier 2 – Complex Install

Training (One-Time Cost)				
Part No	Description	Qty	Price	Amount
4235-00004-0000	Training for Software Usage, Event Review, Driver Coaching - Dedicated Web Ex Training Session (Per Session)	3	\$502.52	\$1,507.56
TOTAL				\$1,507.56

Subscription Fee (per invoice period for commitment term)				
Part No	Description	Qty	Price	Amount
4230-001MS-A	Managed Services Invoiced Annually	167	\$269.00	\$44,923.00
3235-00DOL-A	DriveCam Online License Invoiced Annually	167	\$84.00	\$14,028.00
4230-00FTS-A	Fleet Tracking Service Invoiced Annually	167	\$107.88	\$18,015.96
4230-0FUUEL-A	Fuel Management Invoiced Annually	167	\$32.51	\$5,429.17
TOTAL				\$82,396.13



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Additional Information:

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 felix.espinoza@denvergov.org

Quote Number: DC00004454
 Created Date: 04/19/2013
 Valid Until: 09/30/2013
 Prepared By: Michael MacComiskey
 Sales Rep: Michael MacComiskey
 Phone: +1 8167301960
 Email: mmaccomiskey@drivecam.com

DriveCam Program Price Quote Purchase Option - GSA

Bill To
 City & County of Denver

Ship To

Purchase Option Proposal Summary

Number of Video Event Recorders (VERs) 200	Subscription Term (Months) 24
Number of Subscriptions 200	Subscription Cost (Annual) \$493.39
Year 1 Costs	
Hardware	\$119,000.00
Subscriptions	\$98,678.00
Implementation Services	\$36,374.00
Training	\$0.00
Total Year 1 Costs	\$254,052.00

Terms:

- Client agrees to purchase the subscriptions for the subscription term set forth above.
- Standard invoicing policy is as follows: Hardware, provisioning, implementation and training invoiced upon shipment. Subscriptions invoiced in advance per agreed billing period.
- State taxes, shipping and handling may apply.
- Unless a separate manuals pricing package is in place or Client has instructed DriveCam to turn the manuals feature off, manual events transferred to the DriveCam data center will be charged at \$0.99/event
- Subscription pricing is based on overnight upload of events. Customers that use "kill-switches" or other devices that prevent overnight upload of events will be required to utilize Real-Time Cellular Upload which is subject to additional fees.
- For any DriveCam installation purchased hereunder, fees are charged on a per VER installation basis, subject to a minimum fee of \$1000.00 per installation day. Client shall be responsible for ensuring vehicle and VER availability per the agreed installation schedule. No refunds shall apply for vehicle installations not completed during scheduled installation due to vehicle or VER unavailability. Additional fees may apply for return sites visits
- ELearning will be available to Client for two years from the date of ELearning purchase (invoice date). Individual eLearning user accounts will be activated upon Client request and remain active for six months from the date of activation. No refunds shall apply for unused eLearning services..
- All sales as a result of this quotation are subject to the terms and conditions of DriveCam's GSA 1T70 schedule, #GS-35F-0623S, which are incorporated herein by reference and all orders are subject to acceptance by DriveCam.

By signing below, Client agrees to purchase the Products and Services described in this Quote in accordance with the Terms:

Printed Name	Signature	PO# (Optional)
Title	Date	PO \$ Amount (Optional)



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Hardware (One-Time Cost)				
Part No	Description	Qty	Price	Amount
VER-DC3P-0020	DriveCam 3 Plus Video Event Recorder - Cellular CDMA	200	\$595.00	\$119,000.00
TOTAL				\$119,000.00

Installation Services and Accessories (One-Time Cost)*				
Part No	Description	Qty	Price	Amount
SRV-INS-0011	DriveCam Installation Per Unit - Complex Install (Waste/Transit)	100	\$205.80	\$20,580.00
SRV-INS-0010	DriveCam Installation Per Unit - Standard Install	100	\$157.94	\$15,794.00
TOTAL				\$36,374.00

* Any Installation fees listed herein are charged on a per VER installation basis, subject to a minimum fee of \$1000.00 per installation day. Client shall be responsible for ensuring vehicle and VER availability per the agreed installation schedule. No refunds shall apply for vehicle installations not completed during scheduled installation due to vehicle or VER unavailability. Additional fees may apply for return sites visits.

Implementation Assumptions: VER Quantity: 200 Installation Model:

Subscription Fee (per invoice period for commitment term)				
Part No	Description	Qty	Price	Amount
4230-00FTS-A	Fleet Tracking Service Invoiced Annually	200	\$107.88	\$21,576.00
3235-00DOL-A	DriveCam Online License Invoiced Annually	200	\$84.00	\$16,800.00
4230-001MS-A	Managed Services Invoiced Annually	200	\$269.00	\$53,800.00
4230-0FUUEL-A	Fuel Management Invoiced Annually	200	\$32.51	\$6,502.00
TOTAL				\$98,678.00

Additional Information:

Contract Control Number: PWADM-201209229-00

Contractor Name: Drivecam Video Systems

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of May 16, 2013.

SEAL



CITY AND COUNTY OF DENVER

ATTEST:

Debra Johnson
Debra Johnson, Clerk and Recorder,
Ex-Officio Clerk of the City and
County of Denver

By Michael B Hancock
Michael B Hancock, Mayor

APPROVED AS TO FORM:

DOUGLAS J. FRIEDNASH, Attorney
for the City and County of Denver

REGISTERED AND COUNTERSIGNED:

By Cary Kennedy
Cary Kennedy, Manager of Finance

By Steven J Hahn
Steven J. Hahn, Assistant City
Attorney

By Dennis J Gallagher
Dennis J. Gallagher, Auditor



Contract Control Number: PWADM-201209229-00

Contractor Name: ~~Drivecam Video Systems~~
DriveCam, Inc.

By: WJM

Name: William J. Ruff
(please print)

Title: CS
(please print)

ATTEST: [if required]

By: Shelley E Bennett

Name: Shelley E Bennett
(please print)

Title: SVP Legal Affairs
(please print)

