

THIS PRINT COVERS CALENDAR ITEM NO. : 10.3

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: System Safety

BRIEF DESCRIPTION:

Authorizing the Director of Transportation to execute contract #CPT 623, with DriveCam, Inc., in a not-to-exceed amount of \$1,200,000 and for a term of three years.

SUMMARY:

- On July 6, 2012, the Human Rights Commission granted a sole-source waiver to enter into a contract renewal with DriveCam, Inc. for the software and maintenance services pertaining to the proprietary DriveCam event recorders that are in MUNI vehicles.
- The scope of work includes software maintenance and technical support such as daily downloads of recorded events, filtering and factual reporting of driving behavior and performance.
- The DriveCam, Inc. contract renewal is based on a Federal Supply Service agreement with the Federal Government and reflects competitively negotiated discounts for government clients which will remain flat from FY 2011 levels through the term of this renewal agreement.
- The contract renewal is for a three-year term from October 1, 2012 through September 30, 2015 to allow us to take advantage of the federally negotiated discounted pricing.
- Operating budget is providing funds for the work.

ENCLOSURES:

1. SFMTAB Resolution
2. Agreement

APPROVALS:

DATE

DIRECTOR _____ 9/10/12

SECRETARY _____ 9/10/12

ASSIGNED SFMTAB CALENDAR DATE: September 18, 2012

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PURPOSE

Authorizing the Director of Transportation to execute a contract no. CPT 623, with DriveCam, Inc., in a not-to-exceed amount of \$1,200,000 and for a term of three years.

GOAL

This contract CPT 623 would assist in the implementation of the following goals, objectives and initiatives in the SFMTA Strategic Plan:

Goal 1: Create a safer transportation experience for everyone

Objective 1.1 Improve security for transportation system users.

Objective 1.3 Improve the safety of the transportation system.

DESCRIPTION

In FY09, the SFMTA entered into a one-year sole source contract with DriveCam, Inc. to install video event recorders. The purpose of the contract was to improve transit operator safety. DriveCam is the only company that uses a video event recorder to track and monitor transit operator behavior so that risks can be identified and corrected. Installation of the recorders was completed August 2009.

DriveCam's exception-based video event recorder is mounted on the windshield behind the rear-view mirror and captures sights and sounds inside and outside the vehicle. Exceptional forces (e.g. hard braking, swerving, collision, etc.) cause the recorder to create video and audio recordings of the critical time period before and after the triggered event. Saved events are downloaded, analyzed and used to improve driving behavior and assess liability in collisions. The storage, hosting of recorded events in a database server and analysis of recorded events is provided by DriveCam. SFMTA then uses the analysis to identify, assess and mitigate risk with the objective of reducing accidents and collisions.

No other Driver Risk Management system is available that generates video and audio recordings of actual incidents and provides feedback to correct unsafe behavior. Other systems rely mainly on driver interviews and training programs developed from anecdotal interviews.

In October 2010, the SFMTA entered into a one-year sole source contract with DriveCam, Inc. to provide software and maintenance services on the DriveCam video event recorder systems that we installed on MUNI vehicles. DriveCam is the only company that can provide the software and maintenance services for their proprietary system. In October 2011, SFMTA obtained a sole source waiver to renew the software and maintenance services with DriveCam, Inc. for one year.

We are now seeking to renew the software and maintenance contract with DriveCam for three additional years to allow SFMTA to continue to support our goal of providing a safer transportation experience. The contract with DriveCam is based on a Federal Supply Service General Service Administration favored pricing which is likely the lowest pricing obtainable in

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the market.

ALTERNATIVES CONSIDERED

In October 2010, the SFMTA entered into a sole source contract with DriveCam, Inc. for the software and maintenance services for the DriveCam video event recorders and renewed this agreement for one additional year in 2011. The Human Rights Commission granted a sole source waiver both years because DriveCam is a proprietary system and DriveCam is the only vendor who can provide the maintenance services.

In June 2012, the SFMTA requested a sole source waiver to enter into this three-year renewal. The Human Rights Commission granted the sole source waiver for the renewal of the software maintenance contract.

While we did not conduct a competitive solicitation for the software and maintenance services agreement, the contract with DriveCam is based on a Federal Supply Schedule administered by the Federal General Services Administration (GSA) and therefore, the federal government has conducted a thorough review of DriveCam's capabilities, past performance, and commercial sales practices and negotiated discount rates for government buyers. This essentially ensures us that DriveCam is a most competitive vendor. The GSA contract with discounted rates is valid through September 8, 2016.

Because no other vendor has a system that provides us with the kind of data DriveCam does and because the DriveCam system is proprietary, no other alternatives were considered.

FUNDING IMPACT

These costs are included in the SFMTA Operating Budget.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The City Attorney has reviewed this report.

The Human Rights Commission has approved a sole source waiver.

No other approvals are required.

RECOMMENDATION

Staff recommends that the SFMTA Board of Directors authorize the Director of Transportation to execute, SFMTA Contract No. CPT 623, DriveCam, Inc. Software and Maintenance Service Agreement renewal, to provide software and maintenance services to the proprietary DriveCam event recorders that are located in the MUNI vehicles, in an amount not to exceed \$1,200,000 and for a term of three years.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, San Francisco Municipal Transportation Agency (SFMTA) Contract No. CPT 623, DriveCam, Inc. Software and Maintenance Service Agreement renewal, which consists of software and maintenance services on the proprietary DriveCam event recorders that are located in the MUNI vehicles is set to expire on September 30, 2012; and,

WHEREAS, The work to be performed under this software and maintenance contract includes program management, software maintenance and technical support in accordance with the Software License and Maintenance Services Agreement such as daily downloads of recorded events from the SFMTA vehicles in which an Event Recorder is installed and operational, filtering of these events, factual reporting of driving behavior, performance and results reports, and hosting and system maintenance, technical services to support the transfer to SFMTA of all SFMTA data collected by Event Recorders during the term of the contract, training and as-needed expert advice; and,

WHEREAS, On July 6, 2012, the Human Rights Commission granted a sole source waiver for the maintenance of the proprietary video event recorders installed on MUNI vehicles for the period of October 1, 2012 – September 30, 2015; and,

WHEREAS, The contract is 100% funded by operating funds; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute SFMTA Contract No. CPT 623, DriveCam, Inc. Software and Maintenance Service Agreement renewal to provide software and maintenance services on the proprietary DriveCam event recorders that are located in the MUNI vehicles, in an amount not to exceed \$1,200,000 and for a term of three years.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of September 18, 2012.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

**AUTHORIZED FEDERAL SUPPLY SERVICE
INFORMATION TECHNOLOGY SCHEDULE PRICELIST
GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY
EQUIPMENT, SOFTWARE AND SERVICES**

Special Item No. 132-8 Purchase of Equipment
Special Item No. 132-12 Maintenance, Repair Service and Repair Parts/Spare Parts
Special Item No. 132-32 Term Software Licenses
Special Item No. 132-50 Training Courses
Special Item No. 132-52 Electronic Commerce Services

SIN 132-8 PURCHASE OF EQUIPMENT

FSC CLASS 7010 - SYSTEM CONFIGURATION

Other Systems Configuration Equipment, Not Elsewhere Classified

FSC CLASS 7025 - INPUT/OUTPUT AND STORAGE DEVICES

Network Equipment

Other Communications Equipment

Other Input/Output and Storage Devices, Not Elsewhere Classified

FSC Class 7042 - MINI AND MICRO COMPUTER CONTROL DEVICES

Microcomputer Control Devices

**FSC CLASS 5995 - CABLE, CORD, AND WIRE ASSEMBLIES:
COMMUNICATIONS EQUIPMENT**

Communications Equipment Cables

FSC CLASS 5895 - MISCELLANEOUS COMMUNICATION EQUIPMENT

Miscellaneous Communications Equipment

****The following are included offered under Special Item Number 132-8.****

- Installation (FPDS Code N070) for Equipment Offered

NOTE: Installation must be incidental to, in conjunction with and in direct support of the products sold under SIN 132-8 of this contract and cannot be purchased separately. If the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act apply. In applying the Davis-Bacon Act, ordering activities are required to incorporate wage rate determinations into orders, as applicable.

SIN 132-12 - MAINTENANCE OF EQUIPMENT, REPAIR SERVICE, AND REPAIR PARTS/SPARE PARTS (FPDS Code J070 - Maintenance and Repair Service)(Repair Parts/Spare Parts - See FSC Class for basic equipment)

- Maintenance

SIN 132-32 - TERM SOFTWARE LICENSES

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

Application Software

Electronic Commerce (EC) Software

Communications Software

Microcomputers

Application Software

Electronic Commerce (EC) Software

Communications Software

SIN 132-50 - TRAINING COURSES FOR INFORMATION TECHNOLOGY EQUIPMENT AND SOFTWARE (FPDS Code U012)

SIN 132-52 - ELECTRONIC COMMERCE (EC) SERVICES

FPDS Code D301 Value Added Network Services (VANS)

FPDS Code D399 Other Data Transmission Services, Not Elsewhere Classified - Except "Voice" and Pager Services

NOTE: Electronic Commerce Services are not intended to supersede or be substitute for any voice requirements of FTS2001.

DRIVECAM, Inc.
8911 Balboa Ave, San Diego, CA 92123
(858)430-4000

www.drivecam.com

Contract Number: GS-35F-0623S

Period Covered by Contract: September 8, 2006 – September 7, 2016

General Services Administration
Federal Supply Service

Pricelist current through Modification #PO-0050, dated September 8, 2011.

Products and ordering information in this Authorized FSS Information Technology Schedule Pricelist are also available on the GSA Advantage! System. Agencies can browse GSA Advantage! by accessing the Federal Supply Service's Home Page via the Internet at <http://www.fss.gsa.gov/>

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**INFORMATION FOR ORDERING ACTIVITIES
APPLICABLE TO ALL SPECIAL ITEM NUMBERS**

SPECIAL NOTICE TO AGENCIES: Small Business Participation

SBA strongly supports the participation of small business concerns in the Federal Supply Schedules Program. To enhance Small Business Participation SBA policy allows agencies to include in their procurement base and goals, the dollar value of orders expected to be placed against the Federal Supply Schedules, and to report accomplishments against these goals.

For orders exceeding the micropurchase threshold, FAR 8.404 requires agencies to consider the catalogs/pricelists of at least three schedule contractors or consider reasonably available information by using the GSA Advantage!TM on-line shopping service (www.fss.gsa.gov). The catalogs/pricelists, GSA Advantage!TM and the Federal Supply Service Home Page (www.fss.gsa.gov) contain information on a broad array of products and services offered by small business concerns.

This information should be used as a tool to assist ordering activities in meeting or exceeding established small business goals. It should also be used as a tool to assist in including small, small disadvantaged, and women-owned small businesses among those considered when selecting pricelists for a best value determination.

For orders exceeding the micropurchase threshold, customers are to give preference to small business concerns when two or more items at the same delivered price will satisfy their requirement.

1. Geographic Scope of Contract:

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. Territories.

The Geographic Scope of Contract will be domestic delivery only.

2. Contractor's Ordering Address and Payment Information:

Ordering Address: DriveCam, Inc. 8911 Balboa Ave, San Diego, CA 92123

Payment Information: DriveCam, Inc. DEPT 9972, Los Angeles, CA 90084

Contractors are required to accept credit cards for payments equal to or less than the micro-purchase threshold for oral or written delivery orders. Credit cards will not be acceptable for payment above the micro-purchase threshold. In addition, bank account information for wire transfer payments will be shown on the invoice.

The following telephone number(s) can be used by ordering activities to obtain technical and/or ordering assistance:

Office: 858-430-4000

Fax: 858-430-4001

3. LIABILITY FOR INJURY OR DAMAGE

The Contractor shall not be liable for any injury to ordering activity personnel or damage to ordering activity property arising from the use of equipment maintained by the Contractor, unless such injury or damage is due to the fault or negligence of the Contractor, except to the extent such injury or damage is due to the wrongful acts or negligence of the Contractor.

4. Statistical Data for Government Ordering Office Completion of Standard Form 279:

Block 9: G. Order/Modification Under Federal Schedule
 Block 16: Data Universal Numbering System (DUNS) Number: 02-649-9454
 Block 30: Type of Contractor – B.
 Block 31: Woman-Owned Small Business - No
 Block 36: Contractor's Taxpayer Identification Number (TIN): 33-0794096

- 4a. CAGE Code: Not applicable
- 4b. Contractor has registered with the Central Contractor Registration Database.

5. FOB Destination

6. DELIVERY SCHEDULE

a. **TIME OF DELIVERY:** The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO), as set forth below:

SPECIAL ITEM NUMBER	DELIVERY TIME (Days ARO)
132-8	Within 30 days of receipt
132-12	Within 30 days of receipt
132-32	Within 30 days of receipt
132-50	Within 30 days of receipt
132-52	Within 30 days of receipt

****NOTE:** Expedited Delivery and/or Overnight and 2-Day Delivery are offered:

ITEM OR GROUP OF ITEMS (special (Special Item No. of nomenclature)	Expedited delivery time (Hours/Days ARO)
132-8	As agreed upon ordering agency
132-12	As agreed upon ordering agency
132-32	As agreed upon ordering agency
132-50	As agreed upon ordering agency
132-52	As agreed upon ordering agency

b. **URGENT REQUIREMENTS:** When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

7. **Discounts:** Prices shown are NET Prices; Basic Discounts have been deducted.
- a. Prompt Payment: 0% - 30 days from receipt of invoice or date of acceptance, whichever is later.
 - b. Quantity - None
 - c. Dollar Volume - None
 - d. Government Educational Institutions - None
 - e. Other - None

8. **Trade Agreements Act of 1979, as amended:**

All items are U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products, or Mexican end products as defined in the Trade Agreements Act of 1979, as amended.

9. **Statement Concerning Availability of Export Packing:** Not applicable.

10. **Small Requirements:** The minimum dollar value of orders to be issued is \$100.

11. **Maximum Order (All dollar amounts are exclusive of any discount for prompt payment.)**

- a. The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:
 - Special Item Number 132-8 - Purchase of Equipment
 - Special Item Number 132-12 – Maintenance of Equipment, Repair Service, and Repair Parts/Spare Parts
 - Special Item Number 132-32 - Term Software Licenses
 - Special Item Number 132-52 - Electronic Commerce (EC) Services
- b. The Maximum Order value for the following Special Item Numbers (SINs) is \$25,000:
 - Special Item Number 132-50 - Training Courses

12. **ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS**

Ordering activities shall use the ordering procedures of Federal Acquisition Regulation (FAR) 8.405 when placing an order or establishing a BPA for supplies or services. These procedures apply to all schedules.

- a. FAR 8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.
- b. FAR 8.405-2 Ordering procedures for services requiring a statement of work.

13. FEDERAL INFORMATION TECHNOLOGY/TELECOMMUNICATION STANDARDS REQUIREMENTS: ordering activities acquiring products from this Schedule must comply with the provisions of the Federal Standards Program, as appropriate (reference: NIST Federal Standards Index). Inquiries to determine whether or not specific products listed herein comply with Federal Information Processing Standards (FIPS) or Federal Telecommunication Standards (FED-STDS), which are cited by ordering activities, shall be responded to promptly by the Contractor.

13.1 FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATIONS (FIPS PUBS): Information Technology products under this Schedule that do not conform to Federal Information Processing Standards (FIPS) should not be acquired unless a waiver has been granted in accordance with the applicable "FIPS Publication." Federal Information Processing Standards Publications (FIPS PUBS) are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Information concerning their availability and applicability should be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. FIPS PUBS include voluntary standards when these are adopted for Federal use. Individual orders for FIPS PUBS should be referred to the NTIS Sales Office, and orders for subscription service should be referred to the NTIS Subscription Officer, both at the above address, or telephone number (703) 487-4650.

13.2 FEDERAL TELECOMMUNICATION STANDARDS (FED-STDS): Telecommunication products under this Schedule that do not conform to Federal Telecommunication Standards (FED-STDS) should not be acquired unless a waiver has been granted in accordance with the applicable "FED-STD." Federal Telecommunication Standards are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Ordering information and information concerning the availability of FED-STDS should be obtained from the GSA, Federal Supply Service, Specification Section, 470 East L'Enfant Plaza, Suite 8100, SW, Washington, DC 20407, telephone number (202)619-8925. Please include a self-addressed mailing label when requesting information by mail. Information concerning their applicability can be obtained by writing or calling the U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301)975-2833.

14. CONTRACTOR TASKS / SPECIAL REQUIREMENTS (C-FSS-370) (NOV 2001)

- (a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
- (b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. The Industrial Funding Fee does NOT apply to travel and per diem charges.

NOTE: Refer to FAR Part 31.205-46 Travel Costs, for allowable costs that pertain to official company business travel in regards to this contract.

- (c) **Certifications, Licenses and Accreditations:** As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.
- (d) **Insurance:** As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.
- (e) **Personnel:** The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.
- (f) **Organizational Conflicts of Interest:** Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.
- (g) **Documentation/Standards:** The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.
- (h) **Data/Deliverable Requirements:** Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.
- (i) **Government-Furnished Property:** As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.
- (j) **Availability of Funds:** Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

15. CONTRACT ADMINISTRATION FOR ORDERING ACTIVITIES: Any ordering activity, with respect to any one or more delivery orders placed by it under this contract, may exercise the same rights of termination as might the GSA Contracting Officer under provisions of FAR 52.212-4, paragraphs (l) Termination for the ordering activity's convenience, and (m) Termination for Cause (See C.1.)

16. GSA Advantage!

GSA Advantage! is an on-line, interactive electronic information and ordering system that provides on-line access to vendors' schedule prices with ordering information. GSA Advantage! will allow the user to perform various searches across all contracts including, but not limited to:

- (1) Manufacturer;
- (2) Manufacturer's Part Number; and
- (3) Product categories.

Agencies can browse GSA Advantage! by accessing the Internet World Wide Web utilizing a browser (ex.: NetScape). The Internet address is <http://www.fss.gsa.gov/>.

17. PURCHASE OF OPEN MARKET ITEMS

NOTE: Open Market Items are also known as incidental items, noncontract items, non-Schedule items, and items not on a Federal Supply Schedule contract. ODCs (Other Direct Costs) are not part of this contract and should be treated as open market purchases. Ordering Activities procuring open market items must follow FAR 8.402(f).

For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Multiple Award Schedule (MAS) -- referred to as open market items -- to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order, **only if-**

- (1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));
- (2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;
- (3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and
- (4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

18. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

a. For the purpose of this contract, commitments, warranties and representations include, in addition to those agreed to for the entire schedule contract:

- (1) Time of delivery/installation quotations for individual orders;
- (2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/ service/software package submitted in response to requirements which result in orders under this schedule contract.
- (3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

b. The above is not intended to encompass items not currently covered by the GSA Schedule contract.

19. OVERSEAS ACTIVITIES

The terms and conditions of this contract shall apply to all orders for installation, maintenance and repair of equipment in areas listed in the pricelist outside the 48 contiguous states and the District of Columbia, except as indicated below:

None

Upon request of the Contractor, the ordering activity may provide the Contractor with logistics support, as available, in accordance with all applicable ordering activity regulations. Such ordering activity support will be provided on a reimbursable basis, and will only be provided to the Contractor's technical personnel whose services are exclusively required for the fulfillment of the terms and conditions of this contract.

20. BLANKET PURCHASE AGREEMENTS (BPAs)

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPA(s).

21. CONTRACTOR TEAM ARRANGEMENTS

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with Clauses 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

22. INSTALLATION, DEINSTALLATION, REINSTALLATION

The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall received less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies. The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a

request for quotations is made for applicable construction classified installation, de-installation, and reinstallation services under SIN 132-8.

23. SECTION 508 COMPLIANCE.

If applicable, Section 508 compliance information on the supplies and services in this contract are available in Electronic and Information Technology (EIT) at the following:

www.drivecam.com

The EIT standard can be found at: www.Section508.gov/.

24. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.

Prime Contractors (on cost reimbursement contracts) placing orders under Federal Supply Schedules, on behalf of an ordering activity, shall follow the terms of the applicable schedule and authorization and include with each order –

(a) A copy of the authorization from the ordering activity with whom the contractor has the prime contract (unless a copy was previously furnished to the Federal Supply Schedule contractor); and

(b) The following statement:

This order is placed under written authorization from _____ dated _____. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

25. INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)(FAR 52.228-5)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

26. SOFTWARE INTEROPERABILITY.

Offerors are encouraged to identify within their software items any component interfaces that support open standard interoperability. An item's interface may be identified as interoperable on the basis of participation in a Government agency-sponsored program or in an independent organization program. Interfaces may be identified by reference to an interface registered in the component registry located at <http://www.core.gov>.

27. ADVANCE PAYMENTS

A payment under this contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered. Advance or pre-payment is not authorized or allowed under this contract. (31 U.S.C. 3324)

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT (SPECIAL ITEM NUMBER 132-8)

1. MATERIAL AND WORKMANSHIP

All equipment furnished hereunder must satisfactorily perform the function for which it is intended.

2. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.

For credit card orders and BPAs, telephone orders are permissible.

3. TRANSPORTATION OF EQUIPMENT

FOB DESTINATION. Prices cover equipment delivery to destination, for any location within the geographic scope of this contract.

4. INSTALLATION AND TECHNICAL SERVICES

The DriveCam equipment is self-installable, however, DriveCam does offer installation services.

a. **INSTALLATION.** When the equipment provided under this contract is not normally self-installable, the Contractor's technical personnel shall be available to the ordering activity, at the ordering activity's location, to install the equipment and to train ordering activity personnel in the use and maintenance of the equipment. The charges, if any, for such services are listed below, or in the price schedule:

DriveCam provides installation services and training services to the ordering activity when requested.

b. **INSTALLATION, DEINSTALLATION, REINSTALLATION.** The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall received less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, deinstallation, and reinstallation services under SIN 132-8.

c. **OPERATING AND MAINTENANCE MANUALS.** The Contractor shall furnish the ordering activity with one (1) copy of all operating and maintenance manuals which are normally provided with the equipment being purchased.

5. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any equipment that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

6. WARRANTY

a. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract. Those warranty terms are as follows:

(i) **Product Warranty.** For a period of two (2) years after the date of shipment with respect to VERs (the "VER Warranty Period"), Contractor warrants to ordering activity that the VERs, as delivered by Contractor to ordering activity, will substantially conform to the written specifications DriveCam provides to ordering entity hereunder (the "Documentation"). The Warranty Period shall be extended for the duration of any period for which ordering activity purchases an extended warranty from Contractor. The foregoing warranties shall not apply if ordering activity fails to notify Contractor 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) ordering activity's negligence or misuse, or events beyond Contractor's reasonable control; (b) to the extent performed by ordering activity or its representatives, the failure to install, maintain or use the VER in accordance with the Documentation and Contractor's instructions; (c) except as authorized by Contractor in writing, alterations to the VER made by anyone other than Contractor or its representatives; (d) except as authorized by Contractor in writing, any attempt to service the VER other than by Contractor or its representatives; or (e) third party software, hardware, or materials not approved or supplied by Contractor. Contractor shall not be responsible for any of ordering activity's or a third party's software, information or data contained in, stored on, or integrated with any VER returned to Contractor pursuant to the foregoing warranty. Contractor's and its suppliers' sole liability, and ordering activity's exclusive remedy, under this Section 6 shall be, at Contractor's option: (I) to use commercially reasonable efforts to correct any reproducible defects identified by ordering activity in writing during the Warranty Period which renders the VER non-conforming, (II) to replace the defective VER (with either a new or refurbished product), or (III) to accept return of the defective VER from ordering activity and provide ordering activity with a pro rata refund based on the remaining portion of the Warranty Period. Replacement VERs will assume the greater of the balance of the original Warranty Period or ninety (90) days. With respect to any hardware provided hereunder that is not manufactured by Contractor, ordering activity 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 ordering activity 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 Contractor has the right, assigned to ordering activity.

(ii) Warranty Claims. To make a return under the warranties in this Section 6, ordering activity must first contact Contractor Technical Support and assist in a reasonable troubleshooting effort to restore the product to service. Upon a failure determination by Contractor Technical Support, ordering activity must request a Return Material Authorization number (RMA) within the Warranty Period. Upon approval of the request, Contractor will provide ordering activity an RMA number and a prepaid return label. For all warranty returns, ordering activity must use the return label provided by Contractor to send the product to Contractor, packaged appropriately for safe shipment. Contractor shall pay all freight charges for shipment to ordering activity of any replacement VER covered by these warranty provisions.

(iii) Service Warranty. Contractor warrants to the ordering activity that any services to be performed hereunder shall be performed in a professional and workmanlike manner. Contractor's and its suppliers' sole liability, and ordering activity's exclusive remedy, under this contract shall be for Contractor 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.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise expressly set forth herein, (i) the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items, (ii) Contractor disclaims all warranties, express, implied or statutory, except to the extent otherwise specified herein, (iii) Contractor makes no warranty that the software provided 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 and (iv) Contractor makes no warranty that access to the services or associated network coverage (e.g., wireless network coverage) will be continuous or uninterrupted.

d. If inspection and repair of defective equipment under this warranty will be performed at the Contractor's plant, the address is as follows:

Warranty work is carried out at our return logistics center. Address as follows:

Test Technology Inc, 4 E Stow Road Suite 2, Marlton, NJ 08053

7. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the ordering activity will be charged will be the ordering activity purchase price in effect at the time of order placement, or the ordering activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less.

8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

9. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT

When an ordering activity determines that Information Technology equipment will be replaced, the ordering activity shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

TERMS AND CONDITIONS APPLICABLE TO MAINTENANCE, REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS FOR GOVERNMENT-OWNED GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT (AFTER EXPIRATION OF GUARANTEE/WARRANTY PROVISIONS AND/OR WHEN REQUIRED SERVICE IS NOT COVERED BY GUARANTEE/WARRANTY PROVISIONS) AND FOR LEASED EQUIPMENT (SPECIAL ITEM NUMBER 132-12)

1. SERVICE AREAS

a. The maintenance and repair service rates listed herein are applicable to any ordering activity location within a 50 mile radius of the Contractor's service points. If any additional charge is to apply because of the greater distance from the Contractor's service locations, the mileage rate or other distance factor shall be stated in paragraphs 8.d and 9.d of this Special Item Number 132-12.

b. When repair services cannot be performed at the ordering activity installation site, the repair services will be performed at the Contractor's plant(s) listed below:

Warranty work is carried out at our return logistics center. Address as follows:
Test Technology Inc., 4 E Stow Road Suite 2, Marlton, NJ 08053

2. MAINTENANCE ORDER

a. Agencies may use written orders, EDI orders, credit card orders, or BPAs, for ordering maintenance under this contract. The Contractor shall confirm orders within fifteen (15) calendar days from the date of receipt, except that confirmation of orders shall be considered automatic for renewals for maintenance (Special Item Number 132-12). Automatic acceptance of order renewals for maintenance service shall apply for machines which may have been discontinued from use for temporary periods of time not longer than 120 calendar days. If the order is not confirmed by the Contractor as prescribed by this paragraph, the order shall be considered to be confirmed by the Contractor.

b. The Contractor shall honor orders for maintenance for the duration of the contract period or a lesser period of time, for the equipment shown in the pricelist. Maintenance service shall commence on a mutually agreed upon date, which will be written into the maintenance order. Maintenance orders shall not be made effective before the expiration of any applicable maintenance and parts guarantee/warranty period associated with the purchase of equipment. Orders for maintenance service shall not extend beyond the end of the contract period.

c. Maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice, or shorter notice when agreed to by the Contractor; such notice to become effective thirty (30) calendar days from the date on the notification. However, the ordering activity may extend the original discontinuance date upon written notice to the Contractor, provided that such notice is furnished at least ten (10) calendar days prior to the original discontinuance date.

d. Annual Funding. When annually appropriated funds are cited on a maintenance order, the period of maintenance shall automatically expire on September 30th of the contract period, or at the end of the contract period, whichever occurs first. Renewal of a maintenance order citing the new appropriation shall be required, if maintenance is to continue during any remainder of the contract period.

e. Cross-year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month, fiscal year period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

f. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of maintenance service, if maintenance is to be terminated at that time. Orders for continued maintenance will be required if maintenance is to be continued during the subsequent period.

3. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

a. Agencies may use written orders, EDI orders, credit card orders, blanket purchase agreements (BPAs), or small order procedures for ordering repair service and/or repair parts/spare parts under this contract. Orders for repair service shall not extend beyond the end of the contract period.

b. When repair service is ordered, only one chargeable repairman shall be dispatched to perform repair service, unless the ordering activity agrees, in advance, that additional repair personnel are required to effect repairs.

4. LOSS OR DAMAGE

When the Contractor removes equipment to his establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the equipment is removed from the ordering activity installation, until the equipment is returned to such installation.

5. SCOPE

a. The Contractor shall provide maintenance for all equipment listed herein, as requested by the ordering activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the equipment types/models within the scope of this Information Technology Schedule.

b. Equipment placed under maintenance service shall be in good operating condition.

(1) In order to determine that the equipment is in good operating condition, the equipment shall be subject to inspection by the Contractor, without charge to the ordering activity.

(2) Costs of any repairs performed for the purpose of placing the equipment in good operating condition shall be borne by the Contractor, if the equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.

(3) If the equipment was not under the Contractor's responsibility, the costs necessary to place the equipment in proper operating condition are to be borne by the ordering activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).

6. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering activity personnel shall not perform maintenance or attempt repairs to equipment while such equipment is under the purview of a maintenance order, unless agreed to by the Contractor.
- b. Subject to security regulations, the ordering activity shall permit access to the equipment which is to be maintained or repaired.

7. RESPONSIBILITIES OF THE CONTRACTOR

For equipment covered by a maintenance contract or warranty, the Contractor's repair service personnel shall provide ordering activity replacement equipment upon receipt of defective equipment in accordance with Contractor's standard RMA process. For equipment not covered by a maintenance contract or warranty, Contractor does not provide repair services. Such services may be independently available to ordering activity through third party service providers.

8. MAINTENANCE RATE PROVISIONS

- a. If equipment maintenance services are purchased at the listed monthly price, the Contractor shall bear all costs of maintenance, including labor, parts, and such other expenses as are necessary to keep the equipment in good operating condition, provided that the required repairs are not occasioned by fault or negligence of the ordering activity.

b. REGULAR HOURS

The basic monthly rate for each make and model of equipment shall entitle the ordering activity to maintenance service during a mutually agreed upon nine (9) hour principal period of maintenance, Monday through Friday, exclusive of holidays observed at the ordering activity location.

c. AFTER HOURS

Should the ordering activity require that maintenance be performed outside of Regular Hours, charges for such maintenance, if any, will be specified in the pricelist. Periods of less than one hour will be prorated to the nearest quarter hour.

d. TRAVEL AND TRANSPORTATION

If any charge is to apply, over and above the regular maintenance rates, because of the distance between the ordering activity location and the Contractor's service area, the charge will be:

Negotiated on a case by case basis.

e. QUANTITY DISCOUNTS

Quantity discounts from listed maintenance service rates for multiple equipment owned and/or leased by a ordering activity are indicated below:

Not applicable.

9. REPAIR SERVICE RATE PROVISIONS

a. **CHARGES.** Charges for repair service will include the labor charge, computed at the rates set forth below, for the time during which repairmen are actually engaged in work, and, when applicable, the charge for travel or transportation.

b. **MULTIPLE MACHINES.** When repairs are ordered by a ordering activity on two or more machines located in one or more buildings within walking distance of each other, the charges will be computed from the time the repairman commences work on the first machine, until the work is completed on the last machine. The time required to go from one machine to another, or from one building to another, will be considered actual work performance, and chargeable to the ordering activity, provided the time consumed in going between machines (or buildings) is reasonable.

c. **TRAVEL OR TRANSPORTATION**

(1) **AT THE CONTRACTOR'S SHOP**

(a) When equipment is returned to the Contractor's shop for adjustments or repairs which are not covered by the guarantee/warranty provision, the cost of transportation, packing, etc., from the ordering activity location to the Contractor's plant, and return to the ordering activity location, shall be borne by the ordering activity.

(b) The ordering activity should not return defective equipment to the Contractor for adjustments and repairs or replacement without his prior consultation and instruction.

(2) **AT THE ORDERING ACTIVITY LOCATION (Within Established Service Areas)**

When equipment is repaired at the ordering activity location, and repair service rates are established for service areas or zones, the listed rates are applicable to any ordering activity location within such service areas or zones. No extra charge, time, or expense will be allowed for travel or transportation of repairmen or machines to or from the ordering activity office; such overhead is included in the repair service rates listed.

(3) **AT THE ORDERING ACTIVITY LOCATION (Outside Established Service Areas)**

(a) The repair service rates listed for subparagraph (2) above apply, except that a travel charge of **“Negotiated on a case by case basis”** per mile for repairmen will apply to the round-trip distance between the geographic limits of the applicable service area and the ordering activity location. Such charge will apply as an additional charge, but it will be limited to one round trip for each request that is made by the ordering activity for repair service, regardless of whether repairs are performed at the ordering activity location or at the Contractor's shop.

(b) When the overall travel charge computed at the above mileage rate is unreasonable (considering the time required for travel, actual and necessary transportation costs, and the allowable ordering activity per diem rate for each night the repairman is required to remain overnight at the ordering activity location), the ordering activity shall have the option of reimbursing the Contractor for actual costs, provided that the actual costs are reasonable and allowable. The

Contractor shall furnish the ordering activity with a report of travel performed and related expenses incurred. The report shall include departure and arrival dates, times, and the applicable mode of travel.

d. LABOR RATES

(1) REGULAR HOURS

The Regular Hours repair service rates listed herein shall entitle the ordering activity to repair service during the period 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of holidays observed at the ordering activity location. There shall be no additional charge for repair service which was requested during Regular Hours, but performed outside the Regular Hours defined above, at the convenience of the Contractor.

(2) AFTER HOURS

When the ordering activity requires that repair service be performed outside the Regular Hours defined above, except Sundays and Holidays observed at the ordering activity location, the After Hours repair service rates listed herein shall apply. The Regular Hours rates defined above shall apply when repair service is requested during Regular Hours, but performed After Hours at the convenience of the Contractor.

(3) SUNDAYS AND HOLIDAYS

When the ordering activity requires that repair service be performed on Sundays and Holidays observed at the ordering activity location, the Sundays and Holidays repair service rates will be negotiated with the ordering activity on a case by case basis. When repair service is requested to be performed during Regular Hours and/or After Hours, but is performed at the convenience of the Contractor on Sundays or Holidays observed at the ordering activity location, the Regular Hours and/or After Hours repair service rates, if applicable, shall apply.

10. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

All parts, furnished as spares or as repair parts in connection with the repair of equipment, unless otherwise indicated in this pricelist, shall be new, standard parts manufactured by the equipment manufacturer. All parts shall be furnished at prices indicated in the Contractor's commercial pricelist dated, at a discount of 5 % from such listed prices.

11. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS

a. REPAIR SERVICE

All repair work will be guaranteed/warranted for a period of 90 day period.

b. REPAIR PARTS/SPARE PARTS

All parts, furnished either as spares or repairs parts will be guaranteed/warranted for a 90 day period.

12. INVOICES AND PAYMENTS

a. Maintenance Service

(1) Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

(2) Payment for maintenance service of less than one month's duration shall be prorated at 1/30th of the monthly rate for each calendar day.

b. Repair Service and Repair Parts/Spare Parts

Invoices for repair service and parts shall be submitted by the Contractor as soon as possible after completion of work. Payment under blanket purchase agreements will be made quarterly or monthly, except where cash payment procedures are used. Invoices shall be submitted separately to each ordering activity office ordering services under the contract. The cost of repair parts shall be shown as a separate item on the invoice, and shall be priced in accordance with paragraph #10, above. PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

TERMS AND CONDITIONS APPLICABLE TO
TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-32)

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its post acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

2. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

DriveCam warrants to the person or entity that purchases a license for the Software for use pursuant to the terms of this license, that the Software will perform substantially in accordance with the Documentation for the ninety (90) day period following receipt of the Software when used on the recommended hardware configuration.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise expressly set forth herein, (i) the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items, (ii) Contractor disclaims all warranties, express, implied or statutory, except to the extent otherwise specified herein, (iii) Contractor makes no warranty that the software provided 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 and (iv) Contractor makes no warranty that access to the services or associated network coverage (e.g., wireless network coverage) will be continuous or uninterrupted.

3. TECHNICAL SERVICES

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number 866-910-0403 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available 24x7.

4. SOFTWARE MAINTENANCE

a. Software maintenance service shall include the following:

Maintenance to Driving Behavior Management Systems.

b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

5. PERIODS OF TERM LICENSES (132-32) AND MAINTENANCE (132-34)

a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.

b. Term licenses and/or maintenance may be discontinued by the ordering activity on thirty (30) calendar days written notice to the Contractor.

c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.

d. Cross-Year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

e. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

6. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE ~ NOT APPLICABLE.

7. TERM LICENSE CESSATION ~ NOT APPLICABLE.
8. UTILIZATION LIMITATIONS - (132-32, 132-33, AND 132-34)
 - a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
 - b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:
 - (1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.
 - (2) Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. The software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering activity's database. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.
 - (3) Except as is provided in paragraph 8.b(2) above, the ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the ordering activity to use software, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.
 - (4) The ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

(5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

(6) Each license is non-exclusive, non-sublicensable and does not include the right to (and ordering activity shall not and shall not permit any third party to) modify, reverse engineer (except to the extent applicable law prohibits reverse engineering restrictions), incorporate or use in any other works, create derivatives of, or copy any portion of such software, or use the software for the benefit of any third party. Any violation of this provision by ordering activity shall subject such license to early termination by Contractor. Within thirty (30) days after termination of all licenses, ordering activity will return to Contractor (or destroy) the original and all copies of the software made by ordering activity.

9. SOFTWARE CONVERSIONS - (132-32 AND 132-33)

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. Under a term license (132-32), conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

10. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

11. RIGHT-TO-COPY PRICING

The Contractor shall insert the discounted pricing for right-to-copy licenses.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF TRAINING COURSES FOR GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT AND SOFTWARE (SPECIAL ITEM NUMBER 132-50)

1. SCOPE

a. The Contractor shall provide training courses normally available to commercial customers, which will permit ordering activity users to make full, efficient use of general purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.

b. The Contractor shall provide training at the Contractor's facility and/or at the ordering activity's location, as agreed to by the Contractor and the ordering activity.

2. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

3. TIME OF DELIVERY

The Contractor shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the ordering activity.

4. CANCELLATION AND RESCHEDULING

a. The ordering activity will notify the Contractor at least seventy-two (72) hours before the scheduled training date, if a student will be unable to attend. The Contractor will then permit the ordering activity to either cancel the order or reschedule the training at no additional charge. In the event the training class is rescheduled, the ordering activity will modify its original training order to specify the time and date of the rescheduled training class.

b. In the event the ordering activity fails to cancel or reschedule a training course within the time frame specified in paragraph a, above, the ordering activity will be liable for the contracted dollar amount of the training course. The Contractor agrees to permit the ordering activity to reschedule a student who fails to attend a training class within ninety (90) days from the original course date, at no additional charge.

c. The ordering activity reserves the right to substitute one student for another up to the first day of class.

d. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the ordering activity, the Contractor must notify the ordering activity at least seventy-two (72) hours before the scheduled training date.

5. FOLLOW-UP SUPPORT

The Contractor agrees to provide each student with unlimited telephone support for a period of one (1) year from the completion of the training course. During this period, the student may contact the Contractor's instructors for refresher assistance and answers to related course curriculum questions.

6. PRICE FOR TRAINING

The price that the ordering activity will be charged will be the ordering activity training price in effect at the time of order placement, or the ordering activity price in effect at the time the training course is conducted, whichever is less.

7. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after ordering activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). **PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.**

8. FORMAT AND CONTENT OF TRAINING

- a. The Contractor shall provide written materials (i.e., manuals, handbooks, texts, etc.) normally provided with course offerings. Such documentation will become the property of the student upon completion of the training class.
- b. ****If applicable**** For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.
- c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.
- d. The Contractor shall provide the following information for each training course offered:
 - (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
 - (2) The length of the course;
 - (3) Mandatory and desirable prerequisites for student enrollment;
 - (4) The minimum and maximum number of students per class;
 - (5) The locations where the course is offered;
 - (6) Class schedules; and
 - (7) Price (per student, per class (if applicable)).
- e. For those courses conducted at the ordering activity's location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.

9. "NO CHARGE" TRAINING

The Contractor shall describe any training provided with equipment and/or software provided under this contract, free of charge, in the space provided below.

None

TERMS AND CONDITIONS APPLICABLE TO ELECTRONIC COMMERCE (EC)
SERVICES (SPECIAL ITEM NUMBER 132-52)

1. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 132-52 Electronic Commerce Services apply exclusively to EC Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the ordering activity location, as agreed to by the Contractor and the ordering activity.

2. PERFORMANCE INCENTIVES

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract in accordance with this clause.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

3. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

4. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering activity.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering activity.
- c. The ordering activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT/EC Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

5. **STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)**

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause.

Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
- (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

6. **INSPECTION OF SERVICES**

The Inspection of Services–Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time-and-Materials and Labor-Hour (JAN 1986) (Deviation – May 2003) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

7. **RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

8. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the ordering activity shall permit Contractor access to all facilities necessary to perform the requisite IT/EC Services.

9. INDEPENDENT CONTRACTOR

All IT/EC Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the ordering activity.

10. ORGANIZATIONAL CONFLICTS OF INTEREST

a. Definitions.

“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed ordering activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the ordering activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

11. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for IT/EC services. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

12. PAYMENTS

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and

accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), (Alternate II – Feb 2002) (Deviation – May 2003) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), (Alternate II – Feb 2002) (Deviation – May 2003)) applies to labor-hour orders placed under this contract.

13. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user ordering activity upon request.

14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering activity in accordance with the guidelines set forth in the FAR.

15. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

16. DESCRIPTION OF IT/EC SERVICES AND PRICING

See DriveCam's GSA Price List

17. CONFIDENTIALITY

Each of ordering activity and Contractor shall keep confidential all proprietary information provided to it by the other party in connection herewith until such time as such information becomes generally known to the public through no act or omission of the receiving party.

18. CLIENT DATA

As between Contractor and ordering activity, ordering activity shall own the information, data and content captured by the products in ordering activity's possession ("Data"); the Data will be ordering activity's confidential information; provided that, Contractor and its subcontractors shall have the right to use such Data (i) in connection with performance hereunder and (ii) to improve and expand Contractor's products and services as long as such Data is treated as confidential information. Contractor 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, Contractor does not indicate to any third party that such components were provided by, obtained from, or associated with, the ordering activity or ordering activity's drivers.

**USA COMMITMENT TO PROMOTE
SMALL BUSINESS PARTICIPATION
PROCUREMENT PROGRAMS**

PREAMBLE

DriveCam, Inc. provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts.

To accelerate potential opportunities please contact:

William Ruff
Chief Financial Officer
DriveCam Inc.
www.drivecam.com
gsa@drivecam.com
o 858-430-4000

BEST VALUE
BLANKET PURCHASE AGREEMENT
FEDERAL SUPPLY SCHEDULE



San Francisco Municipal Transportation Agency (SFMTA)

In the spirit of the Federal Acquisition Streamlining Act, SFMTA and DriveCam, Inc. enter into a cooperative agreement to further reduce the administrative costs of acquiring commercial items from the General Services Administration (GSA) Federal Supply Schedule Contract Number GS-35F-0623S.

Federal Supply Schedule contract BPAs eliminate contracting and open market costs such as: search for sources; the development of technical documents, solicitations and the evaluation of offers. Teaming Arrangements are permitted with Federal Supply Schedule Contractors in accordance with Federal Acquisition Regulation (FAR) 9.6.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the ordering activity that works better and costs less.

Signatures:

San Francisco Municipal Transportation
Agency

DriveCam, Inc.

By: _____

By: _____

Edward D. Reiskin
Director of Transportation
San Francisco Municipal Transportation
Agency

William J. Ruff
Chief Financial Officer
DriveCam, Inc.

Date:

Date:

Approved as to Form:

Dennis J. Herrera

City Attorney

By: _____

John I. Kennedy

Deputy City Attorney

Date:

(SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY)
 BLANKET PURCHASE AGREEMENT

Pursuant to GSA Federal Supply Schedule Contract Number(s) GS-35F-0623S, Blanket Purchase Agreements, the Contractor agrees to the following terms of a Blanket Purchase Agreement (BPA) EXCLUSIVELY WITH San Francisco Municipal Transportation Agency (SFMTA):

(1) The following contract items can be ordered under this BPA. All orders placed against this BPA are subject to the terms and conditions of the contract and the SFMTA Statement of Work, Three-Party Escrow Service Agreement, and Software License and Maintenance Services Agreement which are incorporated into this BPA by reference:

MODEL NUMBER/PART NUMBER	*SPECIAL BPA DISCOUNT/PRICE
ALL ON ADDENDUM A TO SFMTA STATEMENT OF WORK (SOW)	PRICES AS SPECIFIED IN ADDENDUM A TO SOW

(2) Delivery:

DESTINATION	DELIVERY SCHEDULES / DATES
As required by delivery order	As required by delivery order

(3) The San Francisco Municipal Agency estimates, but does not guarantee, that the volume of purchases through this agreement will be 820.

(4) This BPA does not obligate any funds.

(5) This BPA expires on 9/30/2015 or at the end of the GSA Schedule contract period, whichever is earlier.

(6) The following office(s) is hereby authorized to place orders under this BPA:

OFFICE	POINT OF CONTACT
Safety Division	Melvyn Henry

(7) Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX, or paper.

(8) Unless otherwise agreed to, all deliveries under this BPA must be accompanied by delivery tickets or sales slips that must contain the following information as a minimum:

- (a) Name of Contractor;
- (b) Contract Number;
- (c) BPA Number;

- (d) Model Number or National Stock Number (NSN);
- (e) Purchase Order Number;
- (f) Date of Purchase;
- (g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and
- (h) Date of Shipment.

(9) The requirements of a proper invoice are specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified within the purchase order transmission issued against this BPA.

(10) The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the Contractor's invoice, the provisions of this BPA will take precedence.

DriveCam's GSA PRICE LIST

SIN 132- 8 PURCHASE OF EQUIPMENT

Line #	Item #	Description	# of Units	GSA Price (Inclusive of IFF)
Equipment				
1	VER-DC3-0003	DriveCam Wireless Event Recorder with 2 year warranty	Per each unit	\$ 434.50
2	VER-DC3-0004	<i>DriveCam Cellular Event Recorder - instant notification of events through forced download - daily updates that do not require return to central location - GPS on events with capability for full-time GPS. - DriverID-capable - automatic updates via downloads</i>	Per each unit	\$ 495.00
3	VER-DC3P-0020	<i>DriveCam Cellular Event Recorder - daily updates that do not require return to central location - GPS on events with capability for full-time GPS. - Posted Speed Triggers - DriverID-capable Automatic updates via downloads</i>	Per each unit	\$595
Installation Services				
4	4225-00014-0000	Installation of Wireless Access Point	Not applicable	\$ 1,914.36
5	4225-00015-0000	Installation, Cable - On Site	Not applicable	\$ 957.18
6	SRV-INS-0002	DriveCam vehicle installation, per day/per Technician (Actual Vehicle Installs Per Day Based on Vehicle Type)	Subsequent Days	\$ 957.18
7	SRV-INS-0001	DriveCam vehicle installation, per day/per Technician (Actual Vehicle Installs Per Day Based on Vehicle	For 1st Day	\$ 1,435.77

Line #	Item #	Description	# of Units	GSA Price (Inclusive of IFF)
		Type)		
8	SRV-INS-0003	Implementation Services	One-time Set Up Fee	\$ 1,148.61
9	4230-00002-0001	Collision Accident Report (CAR)	Per Report	\$ 239.29
10	SRV-INS-0008	Provisioning Fee/Per VER unit	Per VER unit	\$ 47.86
11	SRV-INS-0010	DriveCam Installation Per Unit – Standard Install	Per each unit	\$ 157.94
12	SRV-INS-0011	DriveCam Installation Per Unit – Complex Install (Waste, Transit)	Per each unit	\$ 205.80
13	SRV-INS-0012	DriveCam Installation Per Unit – Premium Install (Coach)	Per each unit	\$ 268.01
14	SRV-INS-0013	DriveCam Installation Per Unit – Custom Install	Per each unit	\$ 478.59
15	SRV-INS-0014	DriveCam Peripheral Install – Per Peripheral Sold	Per each unit	\$ 23.93

SIN 132- 12 EQUIPMENT MAINTENANCE

Line #	Model#	Item #	Description	GSA Offer + IFF (\$)
1	WARRANTY 1 YEAR	4510-00001-0001	DriveCam Event Recorder 1 Year Extended Warranty (beyond year 2 – must be purchased at time of DC ER purchase)	\$ 46.90
2	WARRANTY 2 YEAR	4510-00001-0002	DriveCam Event Recorder 2 Year Extended Warranty (beyond year 2 – must be purchased at time of DC ER purchase)	\$ 93.80
3	WARRANTY 3 YEAR	4510-00001-0003	DriveCam Event Recorder 3 Year Extended Warranty (beyond year 2 – must be purchased at time of DC ER purchase)	\$ 140.71

SIN 132-32 - Term Software License

Line #	Item #	Description	GSA Price (inclusive of IFF)
1	3235-00DOL-A	DriveCam Online Subscription (First Year)	\$ 84.00
2	3235-00DOL-A	DriveCam Online Subscription (Subsequent Years)	\$ 84.00
Installation Services			
3	SRV-MGS-0001	Archived Clip Recovery \$500.00/ per event	\$ 478.59

**Current version of software will be supplied to the ordering agency. Software term license includes annual license, tech support and software upgrades.*

SIN 132-50: TRAINING COURSE DESCRIPTIONS

Line # 1

Training Course	DriveCam Academy
Brief description	<p>This session focuses on how to get more from your already operating DriveCam program. Topics in this session include: Best practices with the DriveCam program, legal updates on the use of cameras in the vehicle, effective event review and new products at DriveCam.</p> <p>This is a per student charge. Training is held at a site provided by DriveCam. Expenses for student travel and per diem are at additional costs.</p>
Length of Course	7 hours
Mandatory Requirements	Must be deployed with DriveCam
Minimum/Maximum number of students per class	1 min/ 30 max
Locations where the course is offered	Los Angeles, Dallas, Chicago, Northern New Jersey

Class Schedule	Contact DriveCam for complete schedule
Part Number	4235-00001-0000
GSA Price (inclusive of IFF)	\$263.22 per individual

Line # 2

Training Course	Training for Software Usage, Event Review, Driver Coaching - Dedicated Web Ex Training Session (Per Session)
Brief description	Conducted via WebEx. Key topics covered include: how to use the software, tips on reviewing events, counseling drivers effectively and tracking program success. There will also be time dedicated to best practices for management of the program. This is training done via the web, not at site.
Length of Course	3 Hours
Mandatory Requirements	Must be deployed with DriveCam equipment
Minimum/Maximum number of students per class	1 min/ 25 max
Locations where the course is offered	Web Based
Class Schedule	Per client's request
Part Number	4235-00004-0000
GSA Price (inclusive of IFF)	\$502.52 per class/group session

Line # 3

Training Course	Training for Software Usage, Event Review, Driver Coaching (On-Site/Per Day)
Brief description	DriveCam Training staff comes on site to present a comprehensive training session on how to: use the software, accurately review events, counseling drivers effectively and tracking program success. There will also be time dedicated to best

	practices for management of the program. This is a per class/group charge. Training is held at the client's location. Travel and per diem for instructor are at additional costs.
Length of Course	8 Hours
Mandatory Requirements	Must be deployed with DriveCam equipment
Minimum/Maximum number of students per class	1 minimum/ 20 maximum
Locations where the course is offered	Buying Activity Site
Class Schedule	Per client's request
Part Number	4235-00004-0000
GSA Price (inclusive of IFF)	\$2,297.23 per day

SIN 132-52 ELECTRONIC COMMERCE

Line #	Item #	Description	GSA Price (inclusive of IFF)
1	4230-00SEM- A	Safety Enhancement Module Subscription- Requires DriveCam Managed Services - (Annual Fee)	\$ 80.40
2	4230-0XDUR- A	20 Second Clip Duration - Requires DriveCam Managed Services (Annual Fee)	\$ 100.80
3	4230-00MMS-M	120 Day Trial (DOL, Cell Transmission, Clip Review, Manual Clips) (Price Per Month)	\$ 76.00
4	4230-0RTIME- A	Real-Time/Kill-Switch Cellular Transport Subscription- Requires DriveCam Managed Services - (Annual Fee)	\$ 80.40
5	4230-001MS-A1	Tier 1 - Managed Service Includes standard duty, including 2 axel/4 wheel vehiclesand four wheels operated on no more than one 8-hour shift per day (example - Passenger and service vehicles)	\$ 206.00
6	4230-001MS-A2	Tier 2 - Managed Service - Medium duty, including vehicles generally over 6,000 lbs and/or more than 2 axels/4wheels	\$ 269.00

Line #	Item #	Description	GSA Price (inclusive of IFF)
7	4230-001MS-A4	Tier 3.Managed Service - Heavy duty, including vehicles generally over 10,000 lbs and more than 2 axels/4 wheels.	\$ 420.00
8	4230-MANUAL-M	Manual Clip Subscription - Pay Per Manual. Manual clip is a self-triggered event that is transmitted to the DriveCam data center for viewing. Subscription provided monthly quantity of manual or event reviews performed in a particular month.	\$ 0.95
9	4230-M2500-M	Manual Clip Subscription - 2,500 Manuals (Monthly) - Overage @ \$0.95 / Clip. Manual clip is a self-triggered event that is transmitted to the DriveCam data center for viewing. Subscription provided monthly quantity of manual or event reviews performed in a particular month.	\$ 2,138.00
10	4230-M5000-M	Manual Clip Subscription - 5,000 Manuals (Monthly) - Overage @ \$0.95 / Clip. Manual clip is a self-triggered event that is transmitted to the DriveCam data center for viewing. Subscription provided monthly quantity of manual or event reviews performed in a particular month.	\$ 4,038.00
11	4230-M010K-M	Manual Clip Subscription - 10,000 Manuals (Monthly) - Overage @ \$0.95 / Clip. Manual clip is a self-triggered event that is transmitted to the DriveCam data center for viewing. Subscription provided monthly quantity of manual or event reviews performed in a particular month.	\$ 7,600.00

Line #	Item #	Description	GSA Price (inclusive of IFF)
12	4230-M015K-M	Manual Clip Subscription - 15,000 Manuals (Monthly) - Overage @ \$0.95 / Clip. Manual clip is a self-triggered event that is transmitted to the DriveCam data center for viewing. Subscription provided monthly quantity of manual or event reviews performed in a particular month.	\$ 9,975.00
13	4230-M020K-M	Manual Clip Subscription - 20,000 Manuals (Monthly) - Overage @ \$0.95 / Clip. Manual clip is a self-triggered event that is transmitted to the DriveCam data center for viewing. Subscription provided monthly quantity of manual or event reviews performed in a particular month.	\$ 11,400.00
14	4230-M025K-M	Manual Clip Subscription - 25,000 Manuals (Monthly) - Overage @ \$0.95 / Clip. Manual clip is a self-triggered event that is transmitted to the DriveCam data center for viewing. Subscription provided monthly quantity of manual or event reviews performed in a particular month.	\$ 11,875.00
15	4230-00AVL-A	Fleet Tracking Solution (First Year Monthly Subscription)	\$ 8.99

Note:

* One year minimum of DriveCam Managed Services

* DriveCam is aware that the Annual Fees noted may need to be prorated to meet Government's procurement requirement. Monthly prorated fees can be negotiated at the task order level.

*DriveCam's standard policy for subscription start date has been the first day of the second month following the day that the units were shipped.

The following terms and conditions are incorporated into Blanket Purchase Agreement (“Blanket Purchase Agreement” or "BPA") Number 2013-01 between the City and County of San Francisco, through its San Francisco Municipal Transportation Agency ("SFMTA" or “City”), and DriveCam, Inc. (“DriveCam” or “Contractor”) under GSA Federal Supply Schedule Contract GS-35F-0623S (the “GSA Schedule”) including the GSA Price Schedule ("GSA Price Schedule") unless otherwise noted.

The following describes all possible equipment and services for which the SFMTA may issue a purchase order until September 30, 2015, but shall not obligate the SFMTA, in any manner, to procure any or all of the equipment or services specified. By executing the Blanket Purchase Agreement, Contractor agrees to provide the equipment and services as specified in any purchase order issued in compliance with the GSA Schedule and the Blanket Purchase Agreement.

PART 1 – GENERAL

1.01 DESCRIPTION

- A. The equipment and services specified in this section shall consist of furnishing certain DriveCam parts, accessories and services:
1. Managed Services Renewal services ("Managed Services Renewal") including software maintenance and technical support in accordance with the Software License and Maintenance Services Agreement. The services shall include program management, software maintenance and technical support, daily downloads (to the extent applicable vehicles are used daily) of recorded events from all SFMTA vehicles in which an Event Recorder is installed and operational, filtering of these events, factual reporting of driving behavior, performance and results reporting, and hosting and system maintenance. The SFMTA may purchase the following maximum of Managed Services Renewals based on the existing and estimated increases in the fleet:

October 1, 2012 – September 30, 2013	820
October 1, 2013 – September 30, 2014	865
October 1, 2014 – September 30, 2015	940

The price for these services are set forth in the GSA Price Schedule and Addendum A (the SFMTA Pricing Schedule) of this Statement of Work ("Addendum A").

2. Technical services to support the transfer to SFMTA of all SFMTA data collected by Event Recorders during the term of this BPA from the DriveCam Online repository. The price and scope for these services are set forth, respectively, in Addendum A and Addendum B attached hereto.

3. Training and as-needed expert witness support as provided herein. The price for these services are set forth in the GSA Price Schedule and Addendum A.
 4. Other items as provided herein. The price for these services are set forth in the GSA Price Schedule and Addendum A.
- B. The SFMTA may issue multiple purchase orders against the BPA for the purchase of a specific quantity of Managed Service Renewals and related services and parts.

1.02 QUALITY ASSURANCE/QUALITY CONTROL

- A. The Contractor shall use only skilled workers who are thoroughly trained and experienced in the necessary crafts methods for proper performance of the work required under these Specifications.
- B. All software shall be the most current, stable version available for the proposed equipment.
- C. The Contractor shall establish, maintain and enforce a Quality Assurance Program. The Quality Assurance Program shall demonstrate that all activities affecting quality are correctly performed by competent people and is subject to SFMTA review upon reasonable request. These requirements shall apply to all BPA activities.

1.03 TRAINING

- A. SFMTA shall have the option to purchase training services related to replacement of DriveCam equipment on SFMTA rubber tire revenue vehicles, Managed Services (event scoring and documentation database), login and access, and on-site training classes for designated staff on software usage, event review and driver coaching.
- B. All Contractor employees who will be working on this project shall undergo SFMTA conducted safety training. Time spent by Contractor's employees in any SFMTA training will be billed to SFMTA at Contractor's then current hourly rates as indicated in purchase order.

PART 2 – PRODUCTS

Part numbers identified herein are subject to change from time to time. A list of updated part numbers will be provided to SFMTA upon request.

2.01 Hardware

- A. The Contractor shall provide the following replacement hardware as Open Market Items under the GSA Price Schedule:
 - 1. GPS antenna – part number PER-GPS-0001 (not applicable for internal GPS)
 - 2. Remote Panic Button – part number 2015-00005-0006
 - 3. Torx Wrench DC3 – part number 1130-00101-0000
 - 4. 5-Port or 6-Port (as available) Hub Connector – part number PER-CAT-0002
 - 5. Wiring bundle, electrical connects, securing tie down straps, mounting brackets, accessories, power harness and miscellaneous hardware and equipment.

2.02 Software

- A. The Contractor shall provide the following software including any updates or patches:
 - 1. 12-month renewal DriveCam Online Subscription – GSA item number 3235-000DOL –SUBS

2.03 Services

- A. The Contractor shall provide the following services:
 - 1. Managed Service Renewal
 - 2. Technical services to support the transfer to SFMTA of all SFMTA data, metadata, and videos collected by Event Recorders during the term of the BPA on a daily basis in both DCE file and Microsoft WMV formats as described in the scope for such services set forth in Addendum B. The information shall be transferred via a secure FTP for which SFMTA has access to the site to download the data. The data shall be maintained on the secure FTP site for a thirty (30) day period. In situations of data

corruption, Contractor shall reload any and all corrupted data to the secure FTP site as directed by the SFMTA for up to a one-year period if the data is available. Contractor shall provide on-going staff support to assist SFMTA staff with data transfer as needed and as directed by the SFMTA. Contractor shall respond within twenty-four (24) hours after being contacted by the SFMTA for assistance.

3. Training services and as-needed expert witness support.
4. Manual Clip subscription not to exceed 200 annually – GSA item number 4230-M0000-SUBS

2.04 Standards for Wires and Cables

- A. All wire sizes and insulation shall be based on the current carrying capability, voltage drop, mechanical strength, temperature and flexibility requirements, as well as fire resistance requirements for vehicle applications in accordance with DriveCam specifications.

2.05 SFMTA Pricing Schedule

- A. The price of equipment and services are provided in the GSA Price Schedule and Addendum A.

2.06 Additional Services and Costs

- A. Additional costs for equipment, software, services, maintenance, and other work not specified in the GSA Schedule shall be provided in Addendum A.

PART 3 – EXECUTION

3.01 CONTRACTOR'S MANAGED SERVICES

- A. The video footage recorded by the DriveCam system of events in SFMTA's revenue vehicles shall be stored and available on the Contractor's website for ninety (90) days.
- B. Designated SFMTA staff shall be provided access by logging into the website and shall be able to view these video footages using Microsoft Windows 2000, XP or Vista, Internet Explorer 6.x or 7.x and network connections that permit streaming Silverlight 2.0 video (or at a minimum wmv video).
- C. In accordance with the terms of Contractor's standard video clip retention policy, which may be updated by DriveCam from time to time, the video footage shall be

accessible on the Contractor's website for a period of 90 days after the event has been received.

- D. In accordance with the terms of Contractor's standard video clip retention policy, which may be updated by Contractor from time to time, after 90 days, the Contractor shall archive the video footage for a period of 275 days and then destroy it. After the initial ninety (90) day period, Contractor will charge SFMTA its standard fee on a per event basis to retrieve any video event file from storage.
- E. The SFMTA shall have the capability to download every video footage from the website and store onto an electronic media during the initial 90-day period.
- F. The Contractor shall utilize DriveCam's standard Scoring System.
- G. SFMTA shall have been provided an opportunity to provide DriveCam feedback on the comments section of the DriveCam Online® portal prior to October 1, 2012, and DriveCam shall use its best efforts to update the comments section of its DriveCam Online® portal with any such revisions that are reasonably necessary.
- H. The Contractor agrees to visibly display the following or similar language in the DriveCam Online® portal - "Disclaimer: These comments are the interpretation of DriveCam based solely on our review of the DriveCam video event and do not take into consideration any other information or factors that may relate to this driving event. These comments are provided for informational purposes only. "

3.02 DISASTER RECOVERY

- A. The Contract shall implement the following for data recovery and uptime:
 - 1. 98% up time (other than downtime due to Unforeseen Events or regularly scheduled downtime)
 - 2. 24/7 monitoring
 - 3. Biometric access only
 - 4. Fire/Water resistant data center
 - 5. Redundant power
- B. The Contractor shall implement redundancy for all critical systems.
- C. The Contractor shall provide near time replication of all data in a separate data center to allow for disaster recovery.

3.03 WARRANTY

A. The warranty provisions of GSA Schedule GS-35F-0623S shall apply.

PART 4 – CITY OWNERSHIP OF EQUIPMENT, DATA, DATABASE AND WORK PRODUCT

4.01 ESCROW AGREEMENT

As part of this Agreement, the SFMTA and Contractor entered into the Three-Party Escrow Service Agreement, dated June 9, 2009 attached hereto as **Attachment A** (the “Escrow Agreement”), the terms of which are incorporated into this Agreement. The Escrow Agreement has a one-year term that commenced on June 9, 2009 and automatically renews for additional one-year periods in accordance with its terms. The terms of the Software License and Maintenance Services Agreement (“License Agreement”) are set forth in **Attachment B** and are hereby incorporated into this Agreement.

4.02 OWNERSHIP OF EQUIPMENT, DATABASE AND WORK PRODUCT

Title to the products purchased by SFMTA hereunder (excluding title to the software) will pass to SFMTA upon Contractor’s delivery to the SFMTA. The software and data license and ownership provisions of the License Agreement shall apply to the BPA.

4.03 MAINTENANCE OF CONTRACTOR'S ONLINE DATABASE

The Contractor shall maintain the DriveCam Online database and provide access to the SFMTA data as described in Section 3.01 above.

4.04 CELLULAR TRANSMISSIONS

As part of the Escrow Agreement, the Contractor shall provide all necessary cellular transmission protocol information to the SFMTA to enable the SFMTA to redirect all cellular transmissions of the video recordings to the SFMTA.

PART 5 – EXPERT WITNESS

The Contractor shall provide a knowledgeable employee to serve as an expert witness and provide deposition and court testimony regarding DriveCam equipment, technology, policies and

procedures, training, and services provided to the City as reasonably required by the City. Such as-needed services shall be provided as set forth in Addendum A, SFMTA Pricing Schedule, of this Statement of Work.

PART 6 –CUSTOMIZED REPORTS

The Contractor shall provide reports covering the following areas as requested by the SFMTA: (1) Program Performance Tools are reports that show trends and comparisons by group, vehicle, and drivers, (2) Coaches Tools are reports that show how the fleet, vehicle and drivers are performing, and (3) and Monitoring Tools are operational reports that show overdue statistics by group, vehicle, and driver.

PART 7 – INSURANCE REQUIREMENTS

- A. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full Term of the Agreement, insurance in the following amounts and coverages:
1. Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
 2. Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
 3. Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
 4. Shipping Insurance with limits not less than the price charged by Contractor to the SFMTA for all Equipment Contractor shall provide to the SFMTA under this Agreement; said insurance coverage to be effective at anytime the Equipment or any part of the Equipment is not in the possession of the Contractor or of the SFMTA. Contractor shall fully indemnify the City for any applicable deductible for any claim under said Shipping Insurance.
- B. Commercial General Liability, Commercial Automobile Liability Insurance, and Shipping Insurance and Inventory Insurance policies must provide the following:

1. Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
 2. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- C. Each policy on which SFMTA is an additional insured shall be endorsed to provide thirty (30) days' advance written notice to City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the following address:
- Melvyn Henry
SFMTA Safety Division
1 South Van Ness Avenue, 7th Floor
San Francisco, CA 94103
- D. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the Term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract Term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.
- E. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.
- F. Should any required insurance lapse during the Term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.
- G. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

- H. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

- I. Contractor will accept liability for all subcontractors work in performance of this contract and any sub-contractor work product, negligence, gross, or willful misconduct shall not be excluded from Contractor's insurance coverage as required under this agreement. Notwithstanding the foregoing, in no event shall Contractor's insurance coverage for actions by its subcontractors be required to exceed the coverage that would be afforded to actions by Contractor under such policies.

PART 8 – INDEMNIFICATION; INCIDENTAL AND CONSEQUENTIAL DAMAGES; LIMITATIONS OF LIABILITY

Subject to the limitations set forth below, Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to Contractor's property, resulting directly from Contractor's negligence or willful misconduct in performance of this Agreement, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except to the extent such loss, damage, injury, liability or claim is the result of negligence or willful misconduct of City. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts. Notwithstanding the foregoing, (i) the City acknowledges and agrees that Contractor makes no guarantee that driving will be risk-free as a result of the use of Contractor's products and services, (ii) in no event shall Contractor be required to indemnify City for damages caused by City employees, and (iii) Contractor shall not have any obligation to indemnify City against wrongful discharge or similar employment claims by City's employees except to the extent a wrongful discharge is due to Contractor tampering with video events or otherwise providing City with a video event containing a material inaccuracy due to Contractor's actions.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Subject to the limitations set forth below, Contractor shall be responsible for incidental and consequential damages resulting from its indemnification obligations above. Nothing in this Agreement shall constitute a waiver of limitation of any rights that SFMTA may have under applicable law.

IN NO EVENT SHALL CONTRACTOR OR ITS LICENSORS, SUPPLIERS, OR DISTRIBUTORS (COMBINED) BE LIABLE UNDER THIS AGREEMENT, THE BLANKET PURCHASE AGREEMENT, THE GSA CONTRACT OR ANY OTHER AGREEMENT INCORPORATED INTO SUCH AGREEMENTS BE REFERENCE, FOR ANY AMOUNTS EXCEEDING THE LESSER OF (i) THOSE ACTUALLY PAID BY SFMTA TO CONTRACTOR UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION ACCRUES OR (ii) ONE MILLION DOLLARS (\$1,000,000).

PART 9 - PROPRIETARY OR CONFIDENTIAL INFORMATION

Contractor understands and agrees that, in the performance of the work or services, all information provided from the SFMTA shall be treated as confidential and not disclosed to any other third party. Further, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

Contractor agrees to provide access to any and all video recordings and database information to only those SFMTA employees who have been designated by the SFMTA to receive such information. Contractor shall not provide access to any SFMTA employee who has not be designated to receive this information.

PART 10 – PAYMENT

The SFMTA shall pay for the cost of the services, equipment and hardware ordered hereunder within 30 days after the date indicated on Contractor's invoice(s).


The Contractor shall invoice the SFMTA on a monthly basis for Managed Services including program management, training and implementation, daily downloads of recorded events from all SFMTA vehicles, filtering of these events, factual reporting of driving behavior, performance and results reporting, and hosting and system maintenance after the services have been performed. Payment for Managed Services shall be due upon completion of such services.

The Contractor shall invoice the SFMTA for training classes after the classes have been performed as specified in GSA Schedule GS-35F-0623S.

PART 11 -- FORCE MAJEURE

Neither SFMTA nor the Contractor shall be liable under this BPA because of any failure or delay in the performance of its obligations on account of strikes, shortages, riots, fire, flood, storm, earthquake, acts of God, hostilities, or any other cause beyond its reasonable control (“Unforeseen Events”).

END OF SECTION

MANAGED SERVICES and TECHNICAL SERVICES	QTY	UNIT COST	EXTENDED COST
Addendum A			
SFMTA Pricing Schedule - 2012 – 2015			
Managed Services, Technical Services, and Optional Services			
MANAGED SERVICES and TECHNICAL SERVICES	QTY	UNIT COST	EXTENDED COST
Managed Services	820	\$395.04	\$323,932.80
<i>Includes: ASP hosting, cellular transport, and Managed Service</i>			
DriveCam Online Subscription	820	\$84.00	\$68,880.00
Annual maintenance and support fee for on-going Data Transfer	1	\$2,000.00	\$2,000.00
MISCELLANEOUS SERVICES			
Expert Witness	N/A	\$1,000.00	N/A
<i>Includes travel and living expenses.</i>			
<i>Note: this Pricing Schedule describes services and pricing not covered in the GSA Schedule. For pricing on other services included in the Blanket Purchase Agreement Statement of Work, please refer to the GSA Price List.</i>			
<i>Pricing provided in this Addendum will be fixed for a period of three (3) years from the date of a fully executed Blanket Purchase Agreement (BPA).</i>			

October 1, 2012

Addendum B

On-Going Data Transfer To SFMTA

Background

This document outlines the method by which the data will be extracted by DriveCam and made available to SFMTA on an on-going basis during the period Managed Services are provided to the SFMTA.

Data Transfer

Telematics and video data will be collected by DriveCam devices installed in vehicles. The data will then be transmitted to DriveCam data centers via a cellular data connection. Once there, the data will be stored and served to SFMTA users via a Web site. In addition, the raw detail data will be available for download by the SFMTA via encrypted file transfer (described in the Data Transfer Mechanism section below) at 8:00PM Pacific Standard Time (PST) each day and will include all data since the previous export. If the data export fails for any reason, the next day's export will include all changes since the previous successful export. The raw detail data shall be available to the SFMTA for download for thirty (30) days.

Security Notes

- All transfers between DriveCam and SFMTA will be via SFTP (128-bit encryption) with a user name and password.
- Transfers will be handled by the SFMTA IT Group
- SFMTA will take appropriate measure to protect the Data as required
- Data may contain driver names, but no other PII (personal identifiable information)

Data Elements & Format

The following list of relational database objects will be extracted in to an ASCII format

- *Events.xml*: All detail regarding each event with Behavior IDs
- *Behaviors.xml*: Behavior ID mapping
- *VehicleTypes.xml*: Vehicle Type mapping

The Video files in DCE format and WMV format will be zipped up into multiple files ~250MB in size each.

- Each day one zip file will be generated and include Event Metadata and Behavior mappings and Vehicle Type mappings.

- File will contain inserts (new records from the last transfer) and updates (any record that has changed since the previous transfer). DriveCam shall assist the SFMTA with understanding the data included in a data export in order for SFMTA to correctly upload such data to its database. However, SFMTA shall be responsible for importing and uploading the exported data correctly into its database.
- Updates will be identified by UniqueEventId values that have been transferred in a previous file.
- DCE and WMV video files will be zipped in additional files ~250MB in size each (~1 zip file per 200 files).

Data Transfer Mechanism

Transfer Mechanism: The files will be transferred via SFTP (Secure FTP). SFMTA will be the client, DriveCam will host the server.

The server, user name and password that will be used to access the file will be:

- Host Name: san.drivecam.net:6263
- User: c_SFMTA
- Password: Previously established

Schedule: Data extract files will be available daily for SFMTA to retrieve. The data will be available at 8:00PM PST each day and will include all data since the previous export. If the data export fails for any reason, the next day's export will include all changes since the previous successful export.

Zip File Names:

- Meta Data: YYYYMMDD_HHMMSS.zip which includes:
 - Events.xml
 - Behaviors.xml
 - VehicleTypes.xml
- Video: Clips_ YYYYMMDD_HHMMSS_NNN.zip

Where YYYYMMDD_HHMMSS is the date/time when the export was created and NNN is an incrementing number for each Video zip file.

Event Metadata

The event.xml file will contain the following data:

	Element	Attribute	Data Type	Definition	Detail
	Event	UniqueEventId	bigint	Unique Identifier for Event	
1		EventId	Bigint	Unique Identifier for Event	
2		Type	nvarchar(50)	Trigger type	i.e. Manual, Shock, Erratic
3		Status	nvarchar(50)	Event Status	i.e. New, FYI Notify, Resolved
4		RecordDate	datetime	Date Event was Recorded (ER Time)	
5		RecordDateUTC	datetime	Date Event was Recorded (UTC)	
6		DownloadedDate	datetime	Date Event was Downloaded from Event Recorder to Server (UTC)	
7		Score	Int	Event Score from Driver Risk Analyst	
8		ReviewedDate	datetime	Date Event was Reviewed by Managed Service Team (UTC)	
9		ERSerialNumber	nvarchar(50)	Event Recorder Serial Number	
10		LastUpdated	datetime	Date Event was last updated (UTC)	
11		Overdue	Float	Days Event is overdue for coaching	
12		EventFileName	nvarchar(25)	Filename of Event WMV file	
13		EventFileNameDCE	nvarchar(25)	Filename of Event DCE file	
14	Vehicle	Vehicle Name	nvarchar(50)		Vehicle Detail
15		Type	Int		Vehicle Detail
16	Notes	Notes Reviewer Notes	nvarchar(max)		Notes entered by the Reviewer, Coach and Driver
17	Driver	Driver First Name	nvarchar(50)		Driver detail
18		Lastname	nvarchar(50)		
19		EmployeeNum	nvarchar(50)		
20		UserName	nvarchar(255)		
21	Group	Group Name	nvarchar(50)		Group detail where Event occurred
22		FullPath	nvarchar(3500)		
	TForces	TForces	float		Maximum Fwd g-Force for this Event

	Element	Attribute	Data Type	Definition	Detail
23					
24		Forward max	float		
25		Lateral max	float		
26		Thresholds	float		
27		Lateral	float		
28		Forward	Float		
29		Shock			
30	Position	Position	float	GPS detail at time of Event	
31		Latitude	Float		
32		Longitude	Float		
33		Heading	Float		
34		Speed	Float		
35	Behaviors	Behaviors	Int	List of BehaviorIDs associated to the Event	
36		Behavior			

Example Data

Event Metadata:

<Events>

<Event UniqueEventId="23757755" EventId="654224" Type="Erratic" Status="Resolved" RecordDate="2010-07-19T21:37:10-04:00" RecordDateUTC="2010-07-20T01:37:10Z" DownloadedDate="2010-07-20T05:46:25Z" Score="0" ReviewedDate="2010-07-21T19:42:31.1970000Z" ERSerialNumber="03410179" LastUpdated="2010-07-21T19:42:31.8100000Z" Overdue="0.00" EventFileName="354424EA7JL374.wmv" EventFileNameDCE ="CA9HC29G.dce">

<Driver FirstName="Jane" LastName="Smith" EmployeeNum="65823" Username="65823@company" />

<Vehicle Name="000001-74" Type="2" />

<Notes>

<ReviewerNote>There appears to be a placement issue with the DriveCam event recorder that requires attention.

</ReviewerNote>

</Notes>

<Group Name="Hampton South" FullPath="Company\East\East Region 6\Hampton\Hampton South" />

<TForges>

<Forward max="0.46" />

<Lateral max="0.18" />

<Thresholds Forward="0.40" Lateral="0.40" Shock="1.50" />

</TForges>

<Position Latitude="19.050313" Longitude="-56.896112" Heading="137.51" Speed="4" />

<Behaviors>

<Behavior id="57" />

<Behavior id="91" />

</Behaviors>

<Event UniqueEventId="23555281" EventId="642114" Type="Shock" Status="Resolved" RecordDate="2010-07-09T08:34:42-07:00" RecordDateUTC="2010-07-09T15:34:42Z" DownloadedDate="2010-07-09T17:28:14.0870000Z" Score="3" ReviewedDate="2010-07-10T12:25:19.9530000Z" CoachedDate="2010-07-21T15:24:57.0500000Z" ERSerialNumber="03489036" LastUpdated="2010-07-21T15:24:57.2170000Z" Overdue="0.00" EventFileName="542314CA79834L.wmv" EventFileNameDCE =" CA9HD23T.dce">

<Driver FirstName="Juan" LastName="Lopez" EmployeeNum="62043" Username="62043@company" />

<Vehicle Name="0003371-34" Type="3" />

<Notes />

<Group Name="Phoenix" FullPath="Company\West\West Region 3\Phoenix" />

<TForges>


```
<Forward max="3.34" />
<Lateral max="0.72" />
<Thresholds Forward="0.45" Lateral="0.50" Shock="1.75" />
</TForces>
<Position Latitude="42.893313" Longitude="-81.899938" Heading="121.3" Speed="13" />
<Behaviors>
  <Behavior id="47" />
  <Behavior id="57" />
</Behaviors>
</Event>
</Events>
```

Behavior Map:

```
<BehaviorMap>
  <Behavior id="1" Name="Event Not Specified" ShortName="Not Specified" Heading="Event
Trigger" />
  <Behavior id="5" Name="Cell Phone - Handheld" ShortName="Cell Phone - Handheld"
Heading="Distractions" />
  <Behavior id="8" Name="Food/Drink" ShortName="Food/Drink" Heading="Distractions" />
  <Behavior id="10" Name="Other" ShortName="Other" Heading="Distractions" />
  <Behavior id="11" Name="Not Looking Far Ahead" ShortName="Not Looking Far Ahead"
Heading="Poor Awareness" />
  <Behavior id="12" Name="Blank Stare" ShortName="Blank Stare" Heading="Poor Awareness"
/>
  <Behavior id="13" Name="Not Scanning Roadway" ShortName="Not Scanning Roadway"
Heading="Poor Awareness" />
  <Behavior id="14" Name="Not Scanning Intersection" ShortName="Not Scanning Intersection"
Heading="Poor Awareness" />
  <Behavior id="15" Name="Mirrors Not Checked" ShortName="Mirrors Not Checked"
Heading="Poor Awareness" />
  <Behavior id="21" Name="No Issue" ShortName="No Issue" Heading="Driver Conduct" />
  <Behavior id="22" Name="Judgment Error" ShortName="Judgment Error" Heading="Driver
Conduct" />
  <Behavior id="24" Name="Aggressive" ShortName="Aggressive" Heading="Driver Conduct" />
  <Behavior id="26" Name="Drowsy" ShortName="Drowsy" Heading="Driver Condition" />
  <Behavior id="29" Name="Following Too Close [2 - 2.75 sec]" ShortName="2 - 2.75 sec"
Heading="Fundamentals" />
  <Behavior id="31" Name="Failed to Keep an Out" ShortName="Failed to Keep an Out"
Heading="Fundamentals" />
  <Behavior id="39" Name="Rough/Uneven Surface" ShortName="Rough/Uneven Surface"
Heading="Event Trigger" />
  <Behavior id="42" Name="Passenger Unbelted" ShortName="Passenger Unbelted"
Heading="Other Concerns" />
  <Behavior id="43" Name="Driver Unbelted [Roadway]" ShortName="Roadway"
Heading="Other Concerns" />
  <Behavior id="44" Name="No Collision" ShortName="No Collision" Heading="Outcome" />
  <Behavior id="45" Name="Near Collision - Unavoidable" ShortName="Near Collision -
Unavoidable" Heading="Outcome"
  ...
</BehaviorMap>
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VehicleType Map:

```
<VehicleTypeMap>
  <VehicleType id="0" Description="Unassigned" />
  <VehicleType id="1" Description="2 Axle - 4 Tire (Light)" />
  <VehicleType id="2" Description="2 Axle - 4 Tire (Heavy / Offroad)" />
  <VehicleType id="3" Description="Bus / Coach" />
  <VehicleType id="4" Description="Bus - Articulating" />
  <VehicleType id="5" Description="2 Axle - 6 Tire Truck" />
  <VehicleType id="6" Description="3 Axle or More Truck" />
  <VehicleType id="7" Description="Tractor and Single Trailer / Tanker" />
  <VehicleType id="8" Description="Tractor and Multi-Trailer / Multi-Tanker" />
  <VehicleType id="9" Description="Sanitation / Collection Vehicle" />
  <VehicleType id="10" Description="Hauler / Dump Truck / Heavy Equipment Mover" />
  <VehicleType id="11" Description="Concrete / Cement Mixer" />
</VehicleTypeMap>
```

ATTACHMENT A



EFFECTIVE DATE: _____

DEPOSIT ACCOUNT NUMBER: _____

THREE-PARTY ESCROW SERVICE AGREEMENT

1. Introduction.

This Three Party Escrow Service Agreement (the "Agreement") is entered into by and between DriveCam, Inc (the "Depositor"), and by City and County of San Francisco (the "Beneficiary") and by Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"). Depositor, Beneficiary, and Iron Mountain may be referred to individually as a "Party" or collectively as the "Parties" throughout this Agreement.

(a) The use of the term services in this Agreement shall refer to Iron Mountain services that facilitate the creation, management, and enforcement of software or other technology escrow accounts as described in Exhibit A attached hereto ("Services"). A Party shall request Services under this Agreement by submitting a work request for certain Iron Mountain Services ("Work Request") via written instruction or the online portal maintained at the website located at www.ironmountainconnect.com, or other websites owned or controlled by Iron Mountain that are linked to that website (collectively the "Iron Mountain Website").

(b) The Beneficiary and Depositor have, or will have, entered into the GSA Federal Supply Schedule Contract GS-35P-0623S ("GSA Contract") and the attached Software License Agreement, referred to herein as the "GSA Contract and Software License Agreement" (collectively referred to herein as the "License Agreement(s)") conveying intellectual property rights to the Beneficiary, and the Parties intend this Agreement to be considered as supplementary to such agreements, pursuant to Title 11 United States [Bankruptcy] Code, Section 365(n).

2. Depositor Responsibilities and Representations.

(a) Depositor shall make an initial deposit that is complete and functional of all proprietary technology and other materials covered under this Agreement ("Deposit Material") to Iron Mountain within thirty (30) days of the Effective Date. Depositor may also update Deposit Material from time to time during the Term (as defined below) of this Agreement provided a minimum of one (1) complete and functional copy of Deposit Material is deposited with Iron Mountain at all times. At the time of each deposit or update, Depositor will provide an accurate and complete description of all Deposit Material sent to Iron Mountain using the form attached hereto as Exhibit B.

(b) Depositor represents that it lawfully possesses all Deposit Material provided to Iron Mountain under this Agreement and that any current or future Deposit Material liens or encumbrances will not prohibit, limit, or alter the rights and obligations of Iron Mountain under this Agreement. Depositor warrants that with respect to the Deposit Material, Iron Mountain's proper administration of this Agreement will not violate the rights of any third parties.

(c) Depositor represents that all Deposit Material is readable and usable in its then current form; if any portion of such Deposit Material is encrypted, the necessary decryption tools and keys to read such material are deposited contemporaneously.

(d) Depositor agrees, upon request by Iron Mountain, in support of Beneficiary's request for verification Services, to promptly complete and return the Escrow Deposit Questionnaire attached hereto as Exhibit Q. Depositor consents to Iron Mountain's performance of any level(s) of verification Services described in Exhibit A attached hereto and Depositor further consents to Iron Mountain's use of a subcontractor to perform verification Services. Any such subcontractor shall be bound by the same confidentiality obligations as Iron Mountain and shall not be a direct competitor to either Depositor or Beneficiary. Iron Mountain shall be responsible for the delivery of Services of any such subcontractor as if Iron Mountain had performed the Services. Depositor represents that all Deposit Material is provided with all rights necessary for Iron Mountain to verify such proprietary technology and materials upon receipt of a Work Request for such Services or agrees to use commercially reasonable efforts to provide Iron Mountain with any necessary use rights or permissions to use materials necessary to perform verification of the Deposit Material. Depositor agrees to reasonably cooperate with Iron Mountain by providing reasonable access to its technical personnel for verification Services whenever reasonably necessary.

3. Beneficiary Responsibilities and Representations.

(a) Beneficiary acknowledges that, as between Iron Mountain and Beneficiary, Iron Mountain's obligation is to maintain the Deposit Material as delivered by the Depositor and that, other than Iron Mountain's inspection of the Deposit Material (as described in Section 4) and the performance of any of the optional verification Services listed in Exhibit A, Iron Mountain has no other obligation regarding the completeness, accuracy, or functionality of the Deposit Material.

- (b) Beneficiary may submit a verification Work Request to Iron Mountain for one or more of the Services defined in Exhibit A attached hereto and consents to Iron Mountain's use of a subcontractor if needed to provide such Services. Beneficiary warrants that Iron Mountain's use of any materials supplied by Beneficiary to perform the verification Services described in Exhibit A is lawful and does not violate the rights of any third parties.
- (c) As between the Depositor and the Beneficiary, in the event of a release of the Deposit Material in accordance with this Agreement, the Beneficiary warrants that it shall comply strictly with the provisions set forth in Exhibit C with respect to its "Right to Use Following Release." Accordingly, Beneficiary will indemnify, defend, and hold the Depositor harmless from any and all loss, damage, injury, or liability, including reasonable legal fees and expenses, which the Depositor may suffer as a result of any unauthorized use of the Deposit Material or any change not approved by the Depositor that is made to the Deposit Material following the release of the Deposit Material to the Beneficiary. The foregoing indemnity shall include, but is not limited to, any and all losses, damages, injury or liabilities, which the Depositor suffers under any alleged negligence claim or action, or any product liability, strict liability, or infringement claim or action arising from any unauthorized modification or variation of the Deposit Material by the Beneficiary.
4. **Iron Mountain Responsibilities and Representations.**
- (a) Iron Mountain agrees to use commercially reasonable efforts to provide the Services requested by Authorized Person(s) (as identified in the "Authorized Person(s)/Notices Table" below) representing the Depositor or Beneficiary in a Work Request. Iron Mountain may reject a Work Request (in whole or in part) that does not contain all required information at any time upon notification to the Party originating the Work Request.
- (b) Iron Mountain will conduct a visual inspection upon receipt of any Deposit Material and associated Exhibit B. If Iron Mountain determines that the Deposit Material does not match the description provided by Depositor represented in Exhibit B, Iron Mountain will notify Depositor of such discrepancies and notate such discrepancy on the Exhibit B.
- (c) Iron Mountain will provide notice to the Beneficiary of all Deposit Material that is accepted and deposited into the escrow account under this Agreement.
- (d) Iron Mountain will work with a Party who submits any verification Work Request for Deposit Material covered under this Agreement to either fulfill any standard verification Services Work Request or develop a custom Statement of Work ("SOW"). Iron Mountain and the requesting Party will mutually agree in writing to an SOW on terms and conditions that include but are not limited to: description of Deposit Material to be tested; description of verification testing; requesting Party responsibilities; Iron Mountain responsibilities; Service Fees; invoice payment instructions; designation of the paying Party; designation of authorized SOW representatives for both the requesting Party and Iron Mountain with name and contact information; and description of any final deliverables prior to the start of any fulfillment activity. After the start of fulfillment activity, each SOW may only be amended or modified in writing with the mutual agreement of both Parties, in accordance with the change control procedures set forth therein. If the verification Services extend beyond those described in Exhibit A, the Depositor shall be a necessary Party to the SOW governing the Services.
- (e) Iron Mountain will hold and protect Deposit Material in physical or electronic vaults that are either owned or under the control of Iron Mountain, unless otherwise agreed to by all the Parties.
- (f) Upon receipt of written instructions by both Depositor and Beneficiary, Iron Mountain will permit the replacement or removal of previously submitted Deposit Material. The Party making such request shall be responsible for getting the other Party to approve the joint instructions.
- (g) Should transport of Deposit Material be necessary in order for Iron Mountain to perform Services requested by Depositor or Beneficiary under this Agreement, Iron Mountain will use a commercially recognized overnight carrier such as Federal Express or United Parcel Service. Iron Mountain will not be responsible for any loss or destruction of, or damage to, such Deposit Material while in the custody of the common carrier.
5. **Payment.**
- The Party responsible for payment designated in Exhibit A ("Paying Party") shall pay to Iron Mountain all fees as set forth in the Work Request ("Service Fees"). Except as set forth below, all Service Fees are due within thirty (30) calendar days from the date of invoice in U.S. currency and are non-refundable. Iron Mountain may update Service Fees with a ninety (90) calendar day written notice to the Paying Party during the Term of this Agreement (as defined below). The Paying Party is liable for any taxes (other than Iron Mountain income taxes) related specifically to Services purchased under this Agreement or shall present to Iron Mountain an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice. Any Service Fees not collected by Iron Mountain when due shall bear interest until paid at a rate of one percent (1%) per month (12% per annum) or the maximum rate permitted by law, whichever is less. Notwithstanding the non-performance of any obligations of Depositor to deliver Deposit Material under the License Agreement or this Agreement, Iron Mountain is entitled to be paid all Service Fees that accrue during the Term of this Agreement.
6. **Term and Termination.**
- (a) The term of this Agreement is for a period of one (1) year from the Effective Date ("Initial Term") and will automatically renew for additional one (1) year terms ("Renewal Term") (collectively the "Term"). This Agreement shall continue in full force and effect until one of the following events occur: (i) Depositor and Beneficiary provide Iron Mountain with sixty (60) days' prior written joint notice of their intent to terminate this Agreement; (ii) Beneficiary provides Iron Mountain and

Depositor with sixty (60) days' prior written notice of its intent to terminate this Agreement; (iii) the Agreement terminates under another provision of this Agreement; or (iv) any time after the Initial Term, Iron Mountain provides a sixty (60) days' prior written notice to the Depositor and Beneficiary of Iron Mountain's intent to terminate this Agreement. If the Effective Date is not specified above, then the last date noted on the signature blocks of this Agreement shall be the Effective Date.

- (b) Unless the express terms of this Agreement provide otherwise, upon termination of this Agreement, Iron Mountain shall return the Deposit Material to the Depositor. Unless otherwise directed by Depositor, Iron Mountain will use a commercially recognized overnight common carrier such as Federal Express or United Parcel Service to return the Deposit Material to the Depositor. Iron Mountain will not be responsible for any loss or destruction of, or damage to, such Deposit Material while in the custody of the common carrier. If reasonable attempts to return the Deposit Material to Depositor are unsuccessful, Iron Mountain shall destroy the Deposit Material.
- (c) In the event of the nonpayment of undisputed Service Fees owed to Iron Mountain, Iron Mountain shall provide all Parties to this Agreement with written notice of Iron Mountain's intent to terminate this Agreement. Any Party to this Agreement shall have the right to make the payment to Iron Mountain to cure the default. If the past due payment is not received in full by Iron Mountain within thirty (30) calendar days of the date of such written notice, then Iron Mountain shall have the right to terminate this Agreement at any time thereafter by sending written notice to all Parties. Iron Mountain shall have no obligation to perform the Services under this Agreement (except those obligations that survive termination of this Agreement, which includes the confidentiality obligations in Section 9) so long as any undisputed Service Fees due Iron Mountain under this Agreement remain unpaid.

7. **Infringement Indemnification.**

Anything in this Agreement to the contrary notwithstanding, Depositor at its own expense shall defend and hold Beneficiary and Iron Mountain (the "Indemnified Party") fully harmless against any claim or action asserted against the Indemnified Party (specifically including costs and reasonable attorneys' fees associated with any such claim or action) to the extent such claim or action is based on an assertion that Iron Mountain's proper administration of this Agreement or Beneficiary's use of the Deposit Material, within the scope of this Agreement, infringes any patent, copyright, license or other proprietary right of any third party. When the Indemnified Party has notice of a claim or action, it shall promptly notify Depositor in writing. At its option, Depositor may elect to control defense of such claim or action and may elect to enter into a settlement agreement, provided that no such settlement or defense shall include any admission or implication of wrongdoing on the part of the Indemnified Party without such Party's prior written consent, which consent shall not be unreasonably delayed or withheld. Iron Mountain shall have the right to employ separate counsel and participate in the defense of any claim at its own expense.

8. **Warranties.**

- (a) IRON MOUNTAIN WARRANTS ANY AND ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER CONSISTENT WITH THE MEASURES IRON MOUNTAIN TAKES TO PROTECT ITS OWN INFORMATION OF A SIMILAR NATURE, BUT IN NO CASE LESS THAN A REASONABLE LEVEL OF CARE. EXCEPT AS SPECIFIED IN THIS SECTION, ALL CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. AN AGGRIEVED PARTY MUST NOTIFY IRON MOUNTAIN PROMPTLY UPON LEARNING OF ANY CLAIMED BREACH OF ANY WARRANTY AND, TO THE EXTENT ALLOWED BY APPLICABLE LAW, SUCH PARTY'S REMEDY FOR BREACH OF THIS WARRANTY SHALL BE SUBJECT TO THE LIMITATION OF LIABILITY AND CONSEQUENTIAL DAMAGES WAIVER IN THIS AGREEMENT. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.
- (b) Depositor warrants that all Depositor information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Depositor information during the Term of this Agreement.
- (c) Beneficiary warrants that all Beneficiary information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Beneficiary information during the Term of this Agreement.

9. **Confidential Information.**

Iron Mountain shall have the obligation to implement and maintain safeguards designed to protect the confidentiality of the Deposit Material. Except as provided in this Agreement Iron Mountain shall not use or disclose the Deposit Material. Iron Mountain shall not disclose the terms of this Agreement to any third Party. If Iron Mountain receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Material, Iron Mountain will promptly notify the Parties to this Agreement unless prohibited by law. After notifying the Parties, Iron Mountain may comply in good faith with such order. It shall be the responsibility of Depositor or Beneficiary to challenge any such order; provided, however, that Iron Mountain does not waive its rights to present its position with respect to any such order. Iron Mountain will cooperate with the Depositor or Beneficiary, as applicable, to support efforts to quash or limit any subpoena, at such Party's expense. Any Party requesting additional assistance shall pay Iron Mountain's standard charges or as quoted upon submission of a detailed request.

10. Limitation of Liability.

EXCEPT FOR: (I) ANY CLAIMS OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, OR TRADEMARK; (II) LIABILITY FOR DEATH OR BODILY INJURY; (III) PROVEN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (IV) THE INFRINGEMENT INDEMNIFICATION OBLIGATIONS OF SECTION 7, ALL OTHER LIABILITY RELATED TO THIS AGREEMENT, IF ANY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OF ANY PARTY TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT EQUAL TO ONE YEAR OF FEES PAID TO IRON MOUNTAIN UNDER THIS AGREEMENT. IF CLAIM OR LOSS IS MADE IN RELATION TO A SPECIFIC DEPOSIT OR DEPOSITS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES RELATED SPECIFICALLY TO SUCH DEPOSITS.

11. Consequential Damages Waiver.

IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE TO ANOTHER PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS, ANY COSTS OR EXPENSES FOR THE PROCUREMENT OF SUBSTITUTE SERVICES (EXCLUDING SUBSTITUTE ESCROW SERVICES), OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EVEN IF THE POSSIBILITY THEREOF MAY BE KNOWN IN ADVANCE TO ONE OR MORE PARTIES.

12. General.

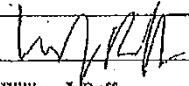
- (a) Incorporation of Work Requests. All valid Depositor and Beneficiary Work Requests are incorporated into this Agreement.
- (b) Purchase Orders. In the event that the Paying Party issues a purchase order or other instrument used to pay Service Fees to Iron Mountain, any terms and conditions set forth in the purchase order which constitute terms and conditions which are in addition to those set forth in this Agreement or which establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.
- (c) Right to Make Copies. Iron Mountain shall have the right to make copies of all Deposit Material as reasonably necessary to perform the Services. Iron Mountain shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on Deposit Material onto any copies made by Iron Mountain. Any copying expenses incurred by Iron Mountain as a result of a Work Request to copy will be borne by the Party requesting the copies. Iron Mountain may request Depositor's reasonable cooperation in promptly copying Deposit Material in order for Iron Mountain to perform this Agreement.
- (d) Choice of Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the Commonwealth of Massachusetts, USA, as if performed wholly within the state and without giving effect to the principles of conflicts of laws.
- (e) Authorized Person(s). Depositor and Beneficiary must each authorize and designate one person whose actions will legally bind such Party ("Authorized Person" who shall be identified in the Authorized Person(s) Notices Table of this Agreement or such Party's legal representative) and who may manage the Iron Mountain escrow account through the Iron Mountain website or written instruction. The Authorized Person for each the Depositor and Beneficiary will maintain the accuracy of their name and contact information provided to Iron Mountain during the Term of this Agreement.
- (f) Right to Rely on Instructions. With respect to Release of Deposit Material or the destruction of Deposit Material, Iron Mountain shall rely on instructions from a Party's Authorized Person(s). In all other cases, Iron Mountain may act in reliance upon any instruction, instrument, or signature reasonably believed by Iron Mountain to be genuine and from an Authorized Person(s), officer, or other employee of a Party. Iron Mountain may assume that such representative of a Party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Iron Mountain will not be required to inquire into the truth of, or evaluate the merit of, any statement or representation contained in any notice or document reasonably believed to be from such representative.
- (g) Force Majeure. No Party shall be liable for any delay or failure in performance due to events outside the defaulting Party's reasonable control, including without limitation acts of God, earthquake, labor disputes, shortages of supplies, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the excused Party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.
- (h) Notices. All notices regarding Exhibit C (Release of Deposit Material) shall be sent by commercial express mail or other commercially appropriate means that provide prompt delivery and require proof of delivery. All other correspondence, including invoices, payments, and other documents and communications, may be sent electronically or via regular mail. The Parties shall have the right to rely on the last known address of the other Parties. Any correctly addressed notice to the last known address of the other Parties that is relied on herein, that is refused, unclaimed, or undeliverable shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by electronic mail, the postal authorities, or through messenger or commercial express delivery service.
- (i) No Waiver. No waiver of any right under this Agreement by any Party shall constitute a subsequent waiver of that or any other right under this Agreement.

- (j) **Assignment.** No assignment of this Agreement by Depositor or Beneficiary or any rights or obligations of Depositor or Beneficiary under this Agreement is permitted without the written consent of Iron Mountain, which shall not be unreasonably withheld or delayed. Iron Mountain shall have no obligation in performing this Agreement to recognize any successor or assign of Depositor or Beneficiary unless Iron Mountain receives clear, authoritative and conclusive written evidence of the change of Parties.
- (k) **Severability.** In the event any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. If this paragraph becomes applicable and, as a result, the value of this Agreement is materially impaired for any Party, as determined by such Party in its sole discretion, then the affected Party may terminate this Agreement by written notice to the other Parties.
- (l) **Independent Contractor Relationship.** Depositor and Beneficiary understand, acknowledge, and agree that Iron Mountain's relationship with Depositor and Beneficiary will be that of an independent contractor and that nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.
- (m) **Attorneys' Fees.** In any suit or proceeding between the Parties relating to this Agreement, the prevailing Party will have the right to recover from the other(s) its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.
- (n) **No Agency.** No Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Parties or bind the other Parties in any respect whatsoever.
- (o) **Disputes.** Any dispute, difference or question relating to or arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or the rights or obligations of any Party hereof will be submitted to, and settled by arbitration by a single arbitrator chosen by the corresponding Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The Parties shall submit briefs of no more than 10 pages and the arbitration hearing shall be limited to two (2) days maximum. The arbitrator shall apply Massachusetts law. Unless otherwise agreed by the Parties, arbitration will take place in Boston, Massachusetts, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address. If however, Depositor or Beneficiary refuse to submit to arbitration, the matter shall not be submitted to arbitration and Iron Mountain may submit the matter to any court of competent jurisdiction for an interpleader or similar action. Unless adjudged otherwise, any costs incurred by Iron Mountain, including reasonable attorney's fees and costs, shall be divided equally and paid by Depositor and Beneficiary.
- (p) **Regulations.** All Parties are responsible for and warrant, to the extent of their individual actions or omissions, compliance with all applicable laws, rules and regulations, including but not limited to: customs laws; import, export and re-export laws; and government regulations of any country from or to which the Deposit Material may be delivered in accordance with the provisions of this Agreement.
- (q) **No Third Party Rights.** This Agreement is made solely for the benefit of the Parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement unless otherwise agreed to by all the Parties hereto.
- (r) **Entire Agreement.** The Parties agree that this Agreement, which includes all the Exhibits attached hereto and all valid Work Requests and SOWs submitted by the Parties, is the complete agreement between the Parties hereto concerning the subject matter of this Agreement and replaces any prior or contemporaneous oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. Each of the Parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement. This Agreement may only be modified by mutual written agreement of all the Parties.
- (s) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
- (t) **Survival.** Sections 6 (Term and Termination), 7 (Infringement Indemnification), 8 (Warranties), 9 (Confidential Information), 10 (Limitation of Liability), 11 (Consequential Damages Waiver), and 12 (General) of this Agreement shall survive termination of this Agreement or any Exhibit attached hereto.

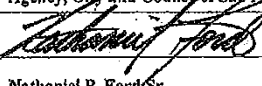
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IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the Effective Date by their authorized representatives:

DEPOSITOR

COMPANY NAME:	DriveCam, Inc.
SIGNATURE:	
PRINT NAME:	William J. Ruff
TITLE:	Vice President - Finance
DATE:	4/20/09
EMAIL ADDRESS:	wjruff@drivacam.com

BENEFICIARY

COMPANY NAME:	San Francisco Municipal Transportation Agency, City and County of San Francisco
SIGNATURE:	
PRINT NAME:	Nathaniel P. Ford Sr.
TITLE:	Executive Director/CEO
DATE:	
EMAIL ADDRESS:	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	ipmclientservices@ironmountain.com

NOTE: AUTHORIZED PERSON(S)/NOTICES TABLE, BILLING CONTACT INFORMATION TABLE AND EXHIBITS FOLLOW

DEPOSITOR -- AUTHORIZED PERSON(S)/NOTICES TABLE

Provide the name(s) and contact information of the Authorized Person(s) under this Agreement. All notices will be sent to the person(s) at the address(es) set forth below. This is required information.

PRINT NAME:	Brian Brown
TITLE:	Dir Corp IT
EMAIL ADDRESS	bbrown@drincam.com
ADDRESS 1	8411 Balboa Ave
ADDRESS 2	San Diego CA 92123
CITY/STATE/PROVINCE	
POSTAL/ZIP CODE	
PHONE NUMBER	858-430-4600
FAX NUMBER	

BENEFICIARY -- AUTHORIZED PERSON(S)/NOTICES TABLE

Provide the name(s) and contact information of the Authorized Person(s) under this Agreement. All notices will be sent to the person(s) at the address(es) set forth below. This is required information.

PRINT NAME:	Hao Elson
TITLE:	Principal Engineer
EMAIL ADDRESS	Elson.hao@sfmta.com
ADDRESS 1	700 Pennsylvania Avenue
ADDRESS 2	
CITY/STATE/PROVINCE	San Francisco, CA
POSTAL/ZIP CODE	94107
PHONE NUMBER	415-401-3196
FAX NUMBER	

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to ipmclientservices@ironmountain.com OR

Iron Mountain Intellectual Property Management, Inc., Attn: Client Services
 2100 Norcross Parkway, Suite 150
 Norcross, Georgia, 30071, USA.
 Telephone: 800-875-5669
 Facsimile: 770-239-9201

BILLING CONTACT INFORMATION TABLE

Please provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.

DEPOSITOR

PRINT NAME:	
TITLE:	
EMAIL ADDRESS	
STREET ADDRESS	
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	
PHONE NUMBER	
FAX NUMBER	
PURCHASE ORDER #	

BENEFICIARY

PRINT NAME:	Elson Hao
TITLE:	Principal Engineer
EMAIL ADDRESS	Elson.hao@sfmta.com
STREET ADDRESS	700 Pennsylvania Avenue
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	94107
PHONE NUMBER	415-401-3196
FAX NUMBER	
PURCHASE ORDER #	

MUST BE COMPLETED EXHIBIT A - Escrow Service Work Request - Deposit Account Number:

SERVICE Check box (S) or checkbox (C) for each service	SERVICE DESCRIPTION - THREE PARTY ESCROW AGREEMENT Services are listed below. Services in shaded tables are required for every new escrow account. Some services may not be available under the Agreement.	ONE TIME FEES	ANNUAL FEES	PAYING PARTY Check box to identify the Paying Party for each service below
<input checked="" type="checkbox"/> Setup Fee	Iron Mountain will setup a new escrow deposit account using a standard escrow agreement. Custom contracts are subject to the Custom Contract Fee noted below.	\$1250		<input type="checkbox"/> Depositor - OR - <input checked="" type="checkbox"/> Beneficiary
<input checked="" type="checkbox"/> Deposit Account Fee Including Escrow Management Center Access	Iron Mountain will set up one deposit account to manage and administrate access to Deposit Material that will be securely stored in controlled media vaults. Furthermore, Iron Mountain will provide account services that include unlimited deposits, electronic vaulting, access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status. A Client Manager will be assigned to each deposit account and provide training upon request to facilitate secure Internet access to the account and ensure fulfillment of Work Requests. An oversize fee of \$200 USD per 1.2 cubic foot will be charged for deposits that exceed 2.4 cubic feet.		\$1,000 \$700	<input type="checkbox"/> Depositor - OR - <input checked="" type="checkbox"/> Beneficiary <input type="checkbox"/> Depositor - OR - <input checked="" type="checkbox"/> Beneficiary
<input checked="" type="checkbox"/> Beneficiary Fee Including Escrow Management Center Access	Iron Mountain will fulfill a Work Request to add a Beneficiary to an escrow deposit account and manage access rights associated with the account. Beneficiary will have access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status. A Client Manager will be assigned to each deposit account and provide training upon request to facilitate secure Internet access to the account and ensure fulfillment of Work Requests.			<input type="checkbox"/> Depositor - OR - <input checked="" type="checkbox"/> Beneficiary
<input checked="" type="checkbox"/> File List Test	Iron Mountain will fulfill a Work Request to perform a File List Test, which includes analyzing deposit media readability, file listing, creation of file classification table, virus scan, and assurance of completed deposit questionnaire. A final report will be sent to the Paying Party regarding the Deposit Material to ensure consistency between Depositor's representations (i.e., Exhibit B and Supplementary Questionnaire) and stored Deposit Material. Deposit must be provided on CD, DVD-R, or deposited FTP.	\$2,500	N/A	<input type="checkbox"/> Depositor - OR - <input checked="" type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 1 - Inventory and Analysis Test	Iron Mountain will perform an Inventory Test on the initial deposit, which includes analyzing deposit media readability, virus scanning, developing file classification tables, identifying the presence/absence of build instructions, and identifying materials required to recreate the Depositor's software development environment. Output includes a report which will include build instructions, file classification tables and listings. In addition, the report will list required software development materials, including, without limitation, required source code languages and compilers, third-party software, libraries, operating systems, and hardware, as well as Iron Mountain's analysis of the deposit.	\$5,000 or based on SOW if custom work required	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 2 - Compile Test	Iron Mountain will fulfill a Work Request to perform a Deposit Compile Test, which includes the Inventory Test as described above plus recreating the Depositor's software development environment, compiling source files and modules, linking libraries and recreating executable code, pass/fail determination, creation of comprehensive build instructions with a final report sent to the Paying Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on SOW	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 3 - Binary Comparison	Iron Mountain will fulfill a Work Request to perform one Deposit Compile Test Binary Comparison which includes a comparison of the files built from the Deposit Compile Test to the actual licensed technology on the Beneficiary's site to ensure a full match in file size, with a final report sent to the Requesting Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on SOW	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Level 4 - Full Usability	Iron Mountain will fulfill a Work Request to perform one Deposit Compile Test Full Usability which includes a confirmation that the built applications work properly when installed. A final report will be sent to the Paying Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on SOW	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Deposit Tracking Notification	At least semi-annually, Iron Mountain will send an update reminder to Depositor. Thereafter, Beneficiary will be notified of last deposit.	N/A	\$375	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Dual/Remote Vaulting	Iron Mountain will fulfill a Work Request to store deposit materials in one additional location as defined within the Service Agreement. Duplicate storage request may be in the form of either physical media or electronic storage.	N/A	\$500	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Release Deposit Material	Iron Mountain will process a Work Request to release Deposit Material by following the specific procedures defined in Exhibit C "Release of Deposit Material" the Escrow Service Agreement.	\$500	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Add Custom Services	Iron Mountain will provide its Escrow Expert consulting based on a custom SOW mutually agreed to by all Parties.	\$175/hour	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary
<input type="checkbox"/> Custom Contract Fee	Custom contracts are subject to the Custom Contract Fee, which covers the review and processing of custom or modified contracts.	\$500	N/A	<input type="checkbox"/> Depositor - OR - <input type="checkbox"/> Beneficiary

Note: Parties may submit Work Requests via written instruction or electronically through the online portal.

**EXHIBIT B
DEPOSIT MATERIAL DESCRIPTION**

COMPANY NAME: _____ DEPOSIT ACCOUNT NUMBER: _____

DEPOSIT NAME _____ AND DEPOSIT VERSION _____

(Deposit Name will appear in account history reports)
DEPOSIT MEDIA (PLEASE LABEL ALL MEDIA WITH THE DEPOSIT NAME PROVIDED ABOVE)

MEDIA TYPE	QUANTITY	MEDIA TYPE	QUANTITY
<input type="checkbox"/> CD-ROM / DVD		<input type="checkbox"/> 3.5" Floppy Disk	
<input type="checkbox"/> DLT Tapes		<input type="checkbox"/> Documentation	
<input type="checkbox"/> DAT Tapes		<input type="checkbox"/> Hard Drive / CPU	
		<input type="checkbox"/> Circuit Board	

	TOTAL SIZE OF TRANSMISSION (SPECIFY IN BYTES)	# OF FILES	# OF FOLDERS
<input type="checkbox"/> Electronic Deposit			
<input type="checkbox"/> Other (please describe below):			

DEPOSIT ENCRYPTION (Please check either "Yes" or "No" below and complete as appropriate)

Is the media or are any of the files encrypted? Yes or No

If yes, please include any passwords and decryption tools description below. Please also deposit all necessary encryption software with this deposit.

Encryption tool name _____ Version _____

Hardware required _____

Software required _____

Other required information _____

DEPOSIT CERTIFICATION (Please check the box below to Certify and Provide your Contact Information)

<input type="checkbox"/> I certify for Depositor that the above described Deposit Material has been transmitted electronically or sent via commercial express mail carrier to Iron Mountain at the address below.	<input type="checkbox"/> Iron Mountain has inspected and accepted the above described Deposit Material either electronically or physically. Iron Mountain will notify Depositor of any discrepancies.
NAME:	NAME:
PRINT NAME:	PRINT NAME:
DATE:	DATE:
EMAIL ADDRESS:	
TELEPHONE NUMBER:	
FAX NUMBER:	

Note: If Depositor is physically sending Deposit Material to Iron Mountain, please label all media and mail all Deposit Material with the appropriate Exhibit B via commercial express carrier to the following address:

Iron Mountain Intellectual Property Management, Inc.
Attn: Vault Administration
2100 Norcross Parkway, Suite 150
Norcross, GA 30071

Telephone: 800-875-5669
Facsimile: 770-239-9201

FOR IRON MOUNTAIN USE ONLY - NOTED DISCREPANCIES ON VISUAL INSPECTION

ATTACHMENT B

**City and County of San Francisco
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, California 94103**

**SOFTWARE LICENSE AND MAINTENANCE SERVICES AGREEMENT
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND
DRIVECAM, INC.**

This Software License Agreement is made (and dated for convenience) this first day of October, 2012, in the City and County of San Francisco, State of California, by and between DriveCam, Inc., a Delaware corporation (“Contractor”) and the City and County of San Francisco, a municipal corporation, hereinafter referred to as “City,” acting by and through its Director of the Office of Contract Administration, hereinafter referred to as “City,” acting by and through the San Francisco Municipal Transportation Agency (“City”, “SFMTA”, or MUNI).

Recitals

WHEREAS, the City wishes to license certain software from Contractor; and,

WHEREAS, Contractor represents and warrants that it is qualified to provide such software and services required by City as set forth under this Agreement.

Now, THEREFORE, the parties agree as follows:

Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

ACCEPTANCE Notice from the City to Contractor that the Licensed Software meets the specifications contained in the Documentation. City’s Acceptance of the Licensed Software shall be governed by the procedures set forth in Section 7.

AGREEMENT This document and any attached appendices and exhibits, including any future written and executed amendments.

**AUTHORIZATION;
or
AUTHORIZATION
DOCUMENT** This Software License Agreement, properly executed by San Francisco Municipal Transportation Agency, and certified by the Controller for the specific funding of this Agreement or any modification thereof.

DOCUMENTATION	The technical publications relating to the use of the Licensed Software, such as reference, installation, administrative and programmer manuals, provided by Contractor to City.
HARDWARE	Contractor's video event recorders and associated hardware provided to City hereunder.
LICENSED SOFTWARE	The Object Code for version 5.4 of Contractor's Hindsight 20/20 software, and all related materials, Documentation, all corrections, patches or updates thereto, and other written information received by City from Contractor, whether in machine-readable or printed form. The Authorization Document may identify more than one software product or more than one copy of any product.
MANAGED SERVICES	The analysis and reporting of driving events captured by Contractor's video event recorders installed in the City's vehicles and certain other services to be provided by Contractor hereunder relating to City's access and use of the Licensed Software.
OBJECT CODE	Machine readable compiled form of Licenses Software provided by Contractor
SPECIFICATIONS	The functional and operational characteristics of the Licensed Software as described in Contractor's current published product descriptions and technical manuals

Whenever the words "as directed," "as required," "as permitted," or words of like effect are used, it shall be understood as the direction, requirement, or permission of the City. The words "sufficient," "necessary," or "proper," and the like, mean sufficient, necessary or proper in the reasonable judgment of the City, unless otherwise indicated by the context.

Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration of this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

Term of the Software License

Subject to the terms of this Agreement, the license to the Licensed Software granted under this Agreement shall coincide with the subscription term for the Managed Services provided to the City under the GSA Federal Supply Schedule Contract GS-35F-0623S (the "GSA Contract") unless sooner terminated in accordance with the provisions of this Agreement. Licenses are purchased and apply on a per video event recorder (VER) basis for the applicable subscription term.

Effective Date of the Agreement

This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

License

A. Grant of License. Subject to the terms and conditions of this Agreement, Contractor grants City a nonexclusive and nontransferable license to use the Licensed Software and Managed Services for City's internal fleet management purposes only to achieve the results described in the Statement of Work between the SFMTA and Contractor and the GSA Federal Supply Schedule Contract GS-35F-0623S, without the right to sublicense such rights, provided City unconditionally agrees to access and use the Licensed Software and Managed Services strictly in accordance with the Documentation and this Agreement ("License"). Under the License, City may print out, or otherwise make, printed copies ("Copies") of the reports, numeric results and other information and materials generated from City's access and use the Licensed Software and Managed Services for internal fleet management purposes only. Any updates, modifications, enhancements or new versions of the Licensed Software or Managed Services provided or made available to City by Contractor, in accordance with this Agreement, shall be considered Licensed Software and Managed Services subject to this Agreement. Contractor shall be entitled at any time and without liability to improve, modify, suspend, test, maintain, or repair the systems used by Contractor 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 the Contractor shall use reasonable efforts to minimize all forms of disruption resulting therefrom. City acknowledges and agrees that the Licensed Software is the proprietary information of Contractor and that this Software License grants City no title or right of ownership in the Licensed Software.

B. Restrictions on Use. City is authorized to use the Licensed Software only for City's internal purposes. City agrees that it will, through its best efforts, not use or permit the Licensed Software to be used in any manner, whether directly or indirectly, that would enable any other unauthorized person or entity to use the Licensed Software. Except as otherwise expressly provided in this Agreement, City agrees to: (a) only use the Licensed 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 Licensed 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 delete or in any manner alter any notice, disclaimers or other legends contained in the Licensed Software and Managed Services or appearing on any screens, documents, reports, numeric results or other materials obtained by City through use of the Licensed Software and Managed Services ("Notices"); (d) reproduce and display all Notices on Copies City makes, in accordance with this Agreement; (e) not attempt to access any systems, programs or data of Contractor that are not licensed under this Agreement; (f) not copy, reproduce, republish, upload, post, transmit or distribute the Licensed Software or Managed Services, or any portion thereof, or facilitate or permit a third party to do so; and (g) not use any device or software to interfere or attempt to interfere with the property operation of the Licensed Software and Managed Services.

Contractor may immediately terminate this Agreement in the event that City breaches the provisions of this Section 5.B.

Delivery

Delivery. The Licensed Software is embedded in the video event recorders to be delivered hereunder.

Risk of Loss. If any of the Licensed Software products are lost or damaged during shipment, Contractor shall promptly replace such products, at no additional charge to the City.

Ownership of Data

As between Contractor and City, the City shall own the information, data and content captured by the video event recorders in City's possession as well as the related scoring information and analysis of such video events provided to City by Contractor ("Data"). However, the Contractor and its subcontractors shall have the right to use such Data in connection with performance hereunder and to improve and expand Contractor's products and services. Contractor 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, Contractor does not indicate to any third party that such components were provided by, obtained from, or associated with, the City or City employees. Such usage rights shall continue and survive destruction of any video clips to which such Meta-Data components relate. For purposes of this Agreement, "Meta Data" means aggregated non-video and non-audio data that does not contain personally identifiable markings (for example, data relating to the forces triggering a risky driving event not the employee causing the event).

Maintenance and Support

Maintenance and Support Services.

- (1) Maintenance and Support includes support for the Licensed Software and Hardware, in accordance with the terms and conditions set forth below. For purposes of this section, "Hardware" and "Licensed Software" refer only to hardware and software manufactured by Contractor.
- (2) Contractor shall use commercially reasonable efforts to provide the following support during Contractor's normal business hours (8 a.m. to 5 p.m. Pacific Standard Time): answering of telephone calls at a toll-free customer support telephone number (866) 49-5861 and e-mail support at support@drivecam.com.
- (3) City shall provide Contractor in writing with the name(s) and contact information of City's technical personnel who will liaison with Contractor regarding all technology-related matters. City may change such liaison(s) upon written notice to Contractor from time to time at reasonable intervals. Contractor shall not be obligated to provide support to any person other than the designated liaison(s).
- (4) Upon identification of a programming error in the Licensed Software, a malfunction in the Hardware, a problem in remotely accessing the Managed Services reports or data caused by Contractor, or other problems with respect to Contractor's provision of Services or Hardware hereunder, City shall promptly notify Contractor of such problems and provide Contractor with all information necessary for Contractor to locate and duplicate the problem. City agrees to provide Contractor with reasonable access (including, without limitation, remote access) to all necessary City personnel, facilities and equipment (including the Products) for the purpose of providing the support services hereunder.

- (5) For any problem for which City has given Contractor notice under Section 8.A, Contractor (or its service representative) shall during Contractor'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) Contractor shall not be obligated to provide such support services if the Hardware malfunction is not reproducible or is caused by (a) City's negligence or misuse, accident, fire, variation or interruption of electricity; (b) to the extent performed by City or its representatives, failure to properly install, maintain or use the Hardware; (c) alterations made by anyone other than Contractor 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 Contractor 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 Contractor.
- (7) Contractor shall not be obligated to provide such support if the programming error in the Licensed Software is not reproducible or is caused by (a) City's failure to implement all updates to the Licensed Software provided to City by Contractor or use of a superseded version of the Licensed Software; (b) City's negligence or misuse or accident; (c) to the extent performed by City or its representatives, failure to properly, install, maintain or use the Licensed Software; (d) alterations made by anyone other than Contractor or its representatives to the Licensed Software or the Hardware or software that interfaces with the Licensed Software after installation; (e) any attempt to service the Licensed Software other than by Contractor or its service representative (including the addition or removal of any third party hardware, peripherals or software); (f) combination of the Licensed Software with any accessory, equipment, software or part not approved by or not supplied by Contractor; or (g) third party software, equipment or materials not approved in writing or supplied by Contractor.

Future Maintenance Service Charges.

Contractor shall provide software maintenance and support services as described in the GSA Contract.

Warranties: Right to Grant License.

Contractor hereby warrants that it has title to and/or the authority to grant a license of the Licensed Software to the City.

Warranties: Conformity to Specifications.

For a period of three (3) years, Contractor warrants that when the Licensed Software and all updates and improvements to the Licensed Software are delivered to City, they will substantially conform to the Documentation.

Infringement Indemnification

- (a) Contractor shall indemnify and hold City and its officers, directors, agents and employees harmless from all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) actually awarded to a third party and resulting from infringement by the Licensed Software of any U.S. patent or copyright issued as of the date of this Agreement; provided that, Contractor is promptly notified of all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over their defense and settlement. Contractor shall not be responsible for any settlement it does not approve in writing.

- (b) If the Licensed Software becomes, or in Contractor's sole opinion is likely to become, the subject of an infringement claim or action, Contractor may in its discretion: (a) procure for City the right to continue using the Licensed Software; (b) replace or modify the Licensed Software so as to be free from infringement; or (c) accept return of the Licensed Software and refund the payments paid by City for such Licensed Software less a reasonable amount for use and damage.
- (c) Notwithstanding the provisions of Section 11(a) above, Contractor has no liability to City for (a) the combination of the Licensed Software with software, hardware or other materials not supplied or approved in writing by Contractor for use with the Licensed Software; (b) the activities of City, after Contractor has notified City that such activities may result in such infringement; (c) use or operation of the Licensed Software other than in strict accordance with the applicable Documentation; or (d) the modification of the Licensed Software, or any thereof, unless such modification was made by Contractor, where such infringement would not have occurred but for such modifications.
- (d) THE FOREGOING PROVISIONS OF THIS SECTION 11 STATE CONTRACTOR'S ENTIRE LIABILITY, AND CITY'S EXCLUSIVE REMEDY, WITH RESPECT TO ANY ALLEGED OR ACTUAL INTELLECTUAL PROPERTY INFRINGEMENT BY THE LICENSED SOFTWARE OR ANY PART THEREOF.

Payment.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until Licensed Software and services required under this Agreement are received from Contractor and approved by the City as being in accordance with this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

Guaranteed Maximum Costs.

The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the agreement is amended in writing and approved as required by law to authorize additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.

The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City and County of San Francisco. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.

The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

Invoice Format.

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include the Contract Progress Payment Authorization number. All amounts paid by City to Contractor shall be subject to audit by City.

Submitting False Claims; Monetary Penalties.

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant submits a false claim shall also be liable to the City for costs, including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) Knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) Conspires to defraud the City by getting a false claim allowed or paid by the City; (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) Is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

Taxes.

City shall pay Contractor for all applicable taxes associated with the products and services provided by Contractor hereunder other than U.S. taxes based on Contractor's net income. Payment to the applicable taxing authority of any such taxes, including possessory interest taxes, and California sales and use taxes, levied upon this Agreement, the transaction, or the services delivered pursuant hereto, shall be the obligation of Contractor.

Payment Does Not Imply Acceptance of Work.

The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, the Licensed Software, although the unsatisfactory character of such work, or Licensed Software may not have been apparent or detected at the time such payment was made. Software, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request must be supervised by Contractor.

Responsibility for Equipment

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City. The acceptance or use of such equipment by Contractor or any of its employees means that Contractor accepts full responsibility for and agrees to exonerate, indemnify, defend and save harmless City from and against any and all claims for any damage or injury of any type arising from the use, misuse or

failure of such equipment, whether such damage be to Contractor, its employees, City employees or third parties, or to property belonging to any of the above.

Independent Contractor; Payment of Taxes and Other Expenses

Independent Contractor. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

Indemnification and General Liability

Subject to the limitations in Section 22 below, Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to Contractor's property, resulting directly from Contractor's negligence or willful misconduct in performance of this Agreement, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except to the extent such loss, damage, injury, liability or claim is the result of negligence or willful

misconduct of City. The foregoing indemnity shall include without limitation, reasonable fees of attorneys, consultants and experts. Notwithstanding the foregoing, (i) the City acknowledges and agrees that Contractor makes no guarantees that driving will be risk-free as a result of the use of Contractor's products and services, (ii) in no event shall Contractor be required to indemnify City for damages caused by City employees, and (iii) Contractor shall not have any obligation to indemnify City against wrongful discharge or similar employment claims by City's employees except to the extent a wrongful discharge is due to Contractor tampering with video events or otherwise providing City with a video event containing a material inaccuracy due to Contractor's actions.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Incidental and Consequential Damages.

Subject to the limitations herein, Contractor shall be responsible for incidental and consequential damages resulting from its indemnification obligations in Section 21 above. Nothing in this Agreement shall constitute a waiver of limitation of any rights that City may have under applicable law. **IN NO EVENT SHALL CONTRACTOR OR ITS LICENSORS, SUPPLIERS, OR DISTRIBUTORS (COMBINED) BE LIABLE UNDER THIS AGREEMENT, THE BLANKET PURCHASE AGREEMENT, THE GSA CONTRACT OR ANY OTHER AGREEMENT INCORPORATED INTO SUCH AGREEMENTS BE REFERENCE, FOR ANY AMOUNTS EXCEEDING THE LESSER OF (i) THOSE ACTUALLY PAID BY CITY TO CONTRACTOR UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION ACCRUES OR (ii) ONE MILLION DOLLARS (\$1,000,000).**

Liability of City

CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 14 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

Nondisclosure.

City agrees that it shall treat the Licensed Software with the same degree of care as it treats like information of its own, which it does not wish to disclose to the public, from the date the Licensed Software is Accepted by the City.

The obligations of the City set forth above, however, shall not apply to the Licensed Software, or any portion thereof, which:

1. is now or hereafter becomes publicly known;
2. is disclosed to the City by a third party which the City has no reason to believe is not legally entitled to disclose such information;
3. is known to the City prior to its receipt of the Licensed Software;

4. is subsequently developed by the City independently of any disclosures made hereunder by Contractor;
5. is disclosed with Contractor's prior written consent;
6. is disclosed by Contractor to a third party without similar restrictions.

Proprietary or Confidential Information of City.

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in the performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent Contractor would use to protect its own proprietary data.

Termination

Basis for Termination by Contractor. Contractor shall have the right to terminate service and maintenance services under this Agreement if Contractor has fully performed all acts required of it under this Agreement to the City's satisfaction and the City fails to perform said services, and said failure to pay continues for a period of ninety (90) days after Contractor has completed the tasks or services. After City has paid the License Fee, Contractor does not have the right to terminate the License provisions of this Agreement, as the License is perpetual.

Basis for Termination by City. City shall have the right, without further obligation or liability to Contractor to immediately terminate this Agreement if Contractor commits any breach of the Agreement and fails to remedy such breach within thirty (30) days after written notice by City of such breach, in which event, Contractor shall reimburse City in the same manner as for the removal of the Licensed Software due to infringement under Section 11.

Notice to the Parties.

Except as otherwise set forth herein, all notices under this Agreement shall be in writing, and shall be deemed given when personally delivered, when sent by confirmed fax, when sent by courier with confirmed receipt, or three days after being sent by prepaid certified or registered U.S. mail to the address of the party to be noticed as set forth herein or such other address as such party last provided to the other by written notice.

Subcontracting and Assignment.

Contractor is prohibited from subcontracting any of its duties or assigning any part or whole of this Agreement unless such subcontracting or assignment is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

Bankruptcy.

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the other party this Agreement shall terminate and be of no further force and effect.

Assignment.

The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement. The City shall not unreasonably withhold such approval.

Compliance with Americans with Disabilities Act.

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

Sunshine Ordinance.

In accordance with San Francisco Administrative Code Section 67.24(e), contracts, contractors' bids, responses to requests for proposals and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Notification Limitations on Contributions.

This paragraph applies if this contract is in excess of \$50,000 over a 12-month period or less and is for: (1) personal services; or (2) the selling or furnishing of any material, supplies or equipment; or (3) any combination of personal services and the selling or furnishing of any material, supplies or equipment. San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 3.700 et. seq., and San Francisco Ethics Commission Regulations 3.710(a)-1 -3.730-1, prohibit the public officials who approved this contract from receiving: (1) gifts, honoraria, emoluments or pecuniary benefits of a value in excess of \$50; (2) any employment for compensation; or (3) any campaign contributions for any elective office for a period of up to six years from individuals and entities who are "public benefit recipients" of the contract. Public benefit recipients of the contract are: (1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the contract; (2) an individual or entity that has a direct 10% equity, or direct 10% participation, or direct 10% revenue interest in that party at the time the public benefit is awarded; or (3) an individual who is a trustee, director, partner or officer of the contracting party at the time the public benefit is awarded.

Contractor understands that any public official who approved this contract may not accept campaign contributions, gifts, or future employment from Contractor except as provided under the Conduct Code. Contractor agrees to notify any other individuals or entities that may be deemed "public benefit recipients" under the Conduct Code because of this contract. Upon request, Contractor agrees to furnish, before this contract is entered into, such information as any public official approving this contract may require in order to ensure such official's compliance with the Conduct Code. Upon request, the City agrees to provide, before this contract is entered into, Contractor with a list of public officials who, under the Conduct Code, approved this contract. Failure of any public official who approved this contract to abide by the Conduct Code shall not constitute a breach by either the City or Contractor of this contract. Notwithstanding anything to the contrary in this contract, neither party shall have the right to terminate the contract due to any failure by the other party to provide the information described in this paragraph.

Non-Waiver of Rights.

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

Modification of Agreement.

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

Administrative Remedy for Agreement Interpretation.

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Director of Transportation of the San Francisco Municipal Transportation Agency who shall decide the true meaning and intent of the Agreement.

Agreement Made in California; Venue.

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

Construction.

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

Entire Agreement.

This Software License Agreement is incorporated by reference into the Agreement between the parties, which together constitute an integrated contract binding the parties. Should any provision or part of the Software License Agreement conflict with any other part or provision of the aforementioned Agreement to such an extent that the provisions or parts cannot be harmonized, then the provisions of this Software License Agreement shall govern.

Severability.

If any provision of the Agreement is held to be unenforceable by a court of competent jurisdiction, the Agreement shall be construed without such provision.

Compliance with Laws.

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws.

Signatories Have Read and Understand This Agreement

In signing this Agreement, the signatories affirm: (1) that they act as authorized employees and agents of the parties and have the authority to bind their respective employers; (2) that they have read, understand and will comply with the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONTRACTOR

Recommended by:

Approved by:

Melvyn Henry
Project Manager

William J. Ruff
Vice President – Finance
DriveCam, Inc.
8911 Balboa Ave, Suite 200
San Diego, CA 92123
Federal Employer ID No. 33-0794096

Approved by:

City Vendor No.: 75814

Edward D. Reiskin
Director of Transportation
Municipal Transportation Agency

Approved as to Form:

San Francisco Municipal Transportation
Agency
Board of Directors
Resolution No. _____
Adopted: _____
Attest:

Dennis J. Herrera
City Attorney

By:

John I. Kennedy
Deputy City Attorney

Roberta Boomer
Secretary, SFMTA Board of Directors