

# CITY CLERK ORIGINAL

C-8389  
03/08/2013

## SERVICE AGREEMENT

This Service Agreement ("Agreement") is effective MARCH 8, 2013 between DOCVIEW, LLC, a Michigan limited liability company, authorized to do business in Arizona, ("Docview") and the City of Glendale, an Arizona Municipal Corporation ("LEA"). Docview and LEA are collectively referred to as the parties.

### RECITALS

Docview provides electronic storage and transmittal of traffic crash reports and other report images for dissemination to individuals, insurance companies, public service departments, courts and other public agencies and companies (collectively, "third parties").

LEA wishes to utilize Docview's services for dissemination of its traffic crash report images, crime images or any other image that the parties agree to.

Therefore, in consideration of this Agreement's covenants and agreements, the parties agree as follows:

1. *Data Transmission.* LEA agrees to transmit daily, either by scanning, facsimile or other electronic method, traffic crash report images ("Images") to DOCVIEW's eCommerce system, except on Saturdays, Sundays or any holiday in which LEA's employees assigned to transmitting Images are not working. LEA is responsible for complying with federal, state and local laws, ordinances, regulations and will conduct proper due diligence in protecting the identity of any individuals listed in the Images, including but not limited to refraining from transmitting the Images, or by redacting personal or confidential information contained in the Images before transmittal.
2. *Equipment.* For the purpose of faxing or scanning paper reports, Docview agrees to deliver to LEA certain equipment for transmitting Images to Docview on or before APRIL 15, 2013 described as follows: a) a Panasonic KV-S1025C scanner (or equivalent scanner if LEA has 1,000 or more Images per calendar year); or b) a Hewlett Packard 1040 Fax machine (or equivalent fax machine if LEA has less than 1,000 Images per calendar year). If LEA is exporting existing images, DOCVIEW LLC will install the proprietary DocLink software to facilitate the exporting process.
3. *Compensation.* Docview will pay compensation to LEA of \$5.00 for each Image purchased by any entity or individual from its eCommerce system. The parties agree that any law enforcement agencies have free access to the Images and Docview will not pay compensation for those Images. Docview will remit compensation to LEA via check or direct deposit within forty-five (45) days of the electronic download of the Images. LEA is allowed to provide copies of the Images directly to third parties and in its discretion, charge the

recipient any fee deemed appropriate. Docview is allowed to provide copies of the Images directly to third parties and in its discretion, charge the recipient any fee deemed appropriate, not to exceed \$8.00.

4. *Storage.* Docview will maintain the Images for a minimum of five (5) years from the initial transmittal date. Docview may permanently delete Images older than five (5) years without prior notification to LEA. LEA agrees that Docview's eCommerce system is not the official repository of LEA's Images.
5. *Equipment Failure.* Docview agrees to provide a replacement scanner (Panasonic KV-S1025C scanner or equivalent scanner) or a replacement fax machine (Hewlett Packard 1040 or equivalent machine) if either fails to function properly within the first thirty (30) days of use.
6. *Performance.* The parties agree to use their best efforts to fulfill or meet all conditions and contingencies of this Agreement and to meet all of their performance obligations imposed under the terms of this Agreement. Neither party shall be considered in default or be liable for any failure to perform or delay in performing any provisions of this Agreement in the customary manner to the extent that the failure or delay shall be caused by any reason beyond its control, including fire, explosion, hostilities or war (declared or undeclared); striking or work stoppage involving either party's employees or governmental restrictions; transportation shortage; or other causes beyond either party's control; provided that the party declaring force majeure shall give notice to the other party promptly and in writing of the commencement of the condition, the nature, and the termination of the force majeure condition. The party whose performance has been interrupted by such circumstances shall use every reasonable means to resume full performance of this Agreement as promptly as possible.
7. *Term/Termination of Agreement.* This Agreement is effective for one (1) year from the effective date provided above. Docview and LEA each reserves the right to terminate this Agreement upon thirty (30) days advance written termination notice to the other party. If either party terminates the Agreement within the first year, all equipment provided to LEA must year be returned within thirty (30) days of the termination notice. This Agreement will be extended for succeeding one (1) year periods unless either party notifies the other in writing at least thirty (30) days before the Agreement's anniversary date. Docview will provide an electronic copy of the Images within thirty (30) days of the termination date upon LEA's written request.
8. *Data Sharing.* LEA agrees to allow Docview to share vehicle identification numbers and other crash data with Docview's business partners. Docview represents that personal or confidential information concerning drivers, passengers, owners, witnesses or other involved parties contained in the Images is not disclosed to Docview's business partners.

9. *User Login Prohibition.* LEA is prohibited from allowing any person not employed by LEA from utilizing LEA user logins Docview provides to LEA that allow access to Docview's eCommerce system. Docview must approve any exceptions to this policy in writing.
10. *Confidentiality.* The parties agree to take all reasonable steps to ensure that confidential information each obtains from or about the other and confidential information in any Images transmitted under this Agreement will remain confidential and will not be disclosed or revealed to outside sources. The parties agree that this Agreement and all of its terms will not be revealed to the public or any third-parties unless and until both parties agree in writing.
11. *Consequential Damages.* Docview shall not be liable, to the maximum extent permitted by applicable law, for any lost revenues or profits or other special, indirect, incidental, consequential, or punitive damages, however caused and regardless of theory of liability, even if docview has, or should have had any knowledge, actual or constructive, of the possibility of such damages.
12. *Mutual Indemnification.* Each of the parties will indemnify and hold each other harmless against all losses, damages, costs, and expenses, including reasonable attorney fees, resulting from their respective breach of any warranty, representation, or covenant contained in this Agreement.
13. *Notices.* All notices relating to this Agreement shall be deemed given when mailed, by certified or registered mail, or overnight courier, to the other Party at the address set forth below or such other address as may be given in writing from time to time:

If to LEA:                      Glendale Police Department  
  Attn: Police Chief  
  6835 North 57<sup>th</sup> Drive  
  Glendale, AZ 85301

With a copy to:                Glendale City Attorney  
  5850 West Glendale Avenue  
  Glendale, AZ 85301

If to Docview:                 Docview  
  5801 West Michigan Avenue, Suite D  
  Lansing, MI 48917

14. *Miscellaneous.* The parties agree as follows:
  - a. *Severability.* Any portion of this Agreement which is prohibited by the laws of any country or state shall be ineffective only to the

- extent of that prohibition without invalidating the remaining provisions of this Agreement.
- b. *Waiver.* The failure or delay of either party to enforce, at any time or for any period of time, any provision of this Agreement or any right or remedy available at law or equity shall not be construed to be a waiver of that provision or of any available right or remedy.
  - c. *Assignments.* This Agreement may be assigned by Docview without the written consent of the other.
  - d. *Governing Law.* The rights and liabilities of the parties shall be determined under Arizona law without regard to conflict of laws principles.
  - e. *No Agency.* This Agreement does not in any way create the relationship of principal and agent, joint-venture or partnership between the parties or any other form of association which would impose on any party liability for the act or failure to act of the other party or parties and under no circumstances shall one party be considered to be the agent of the other party. Neither party shall act or attempt to act, or represent itself, directly or by implication, as an agent of the other party or in any manner assume or create, or attempt to assume or create, any obligation on behalf of, or in the name of, the other party.
  - f. *Headings.* The various section headings are inserted for purposes of reference only and shall not affect the meaning or interpretation of this Agreement or its provisions.
  - h. *No Third Party Beneficiaries.* This Agreement has been entered into solely for the benefit of the parties that have executed it, and does not confer any benefit or enforceable right upon any other party or entity. Accordingly, no party or entity that has not executed this Agreement shall have any right to enforce any of the provisions of it.
  - i. *Successors.* This Agreement shall be binding upon and inure to the benefit of the parties and permitted assigns.
  - j. *Entire Agreement.* This Agreement contains the parties' entire understanding and agreement regarding the subject matter.
  - k. *Amendments Only in Writing.* No amendment, modification, waiver or discharge of this Agreement or any provision of this Agreement shall be effective against either party unless the parties have consented in writing.
  - l. *Foreign Prohibitions.* Both Parties certify under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that they do not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.
  - m. *E-Verify.* Both Parties acknowledge that immigration laws require them to register and participate with the E-Verify program (employment verification program administered by the United

States Department of Homeland Security and the Social Security Administration or any successor program) as they both employ one or more employees in this state. Both Parties warrant that they have registered with and participate with E-Verify. If either Party later determines that the other non-compliant Party has not complied with E-Verify, it will notify the non-compliant Party by certified mail of the determination and of the right to appeal the determination.

DOCVIEW:

Signature: Dan Purus

Name: DAN PURUS

Title: MANAGING PARTNER

Date: 2-6-2013

LEA:

CITY OF GLENDALE, an Arizona  
municipal corporation

for: [Signature]  
Horatio Skeete, Acting City Manager

MARCH 8, 2013  
Date

ATTEST:

[Signature]  
Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:

[Signature]  
Craig Tindall, City Attorney