

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

20-584

SAP Number

District Attorney

Department Contract Representative	Claudia Walker
Telephone Number	(909) 382-3669
Contractor	Bosch Automotive Service Solutions Corporation
Contractor Representative	Phil LaFond
Telephone Number	(805) 880 - 9189
Contract Term	6-19-2020 to 6-18-2023
Original Contract Amount	\$25,500
Amendment Amount	
Total Contract Amount	\$25,500
Cost Center	4504001000

Briefly describe the general nature of the contract:

The Bosch Automotive Service Solutions, Inc. manufactures the Crash Data Retrieval Toolkit (CDR), a forensic toolkit that can retrieve vehicle information for cases involving vehicles. This toolkit allows the District Attorney's office to obtain critical information to assist in the investigation and prosecution of cases. The Crash Data Group (CDG) is the sole distributor of the CDR and the toolkit was procured from CDG. The End User License Agreement being recommended for approval is with Bosch Automotive Service Solutions, Inc.

FOR COUNTY USE ONLY

Approved as to Legal Form ▶ Katherine Hardy, Deputy County Counsel Date _____	Reviewed for Contract Compliance ▶ _____ Date _____	Reviewed/Approved by Department ▶ Jason Anderson, District Attorney Date _____
---	---	--

**End User License Agreement (EULA)
For CDR Tool Free Reader Software
Version: May 30, 2019**

1. ACCEPTANCE OF TERMS

IMPORTANT: READ THIS ENTIRE EULA CAREFULLY. THIS IS A LEGAL DOCUMENT UNDER WHICH YOU HAVE CERTAIN LEGAL RIGHTS AND OBLIGATIONS.

THIS EULA IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR A COMPANY OR OTHER ORGANIZATION) ("YOU" OR "LICENSEE") AND BOSCH AUTOMOTIVE SERVICE SOLUTIONS INC. (REFERRED TO HEREIN AS "BOSCH") CONCERNING YOUR ACCESS TO AND USE OF THE SOFTWARE.

THIS EULA REQUIRES **BINDING ARBITRATION** TO RESOLVE ANY DISPUTE OR CLAIM ARISING OUT OF OR RELATING IN ANY WAY TO THE EULA OR YOUR ACCESS TO OR USE OF THE SOFTWARE, AND YOU AGREE THAT **ANY SUCH DISPUTE OR CLAIM WILL BE RESOLVED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION OR ARBITRATION.** PLEASE REVIEW SECTION 10 CAREFULLY TO UNDERSTAND YOUR RIGHTS AND OBLIGATIONS WITH RESPECT TO THE RESOLUTION OF ANY DISPUTE OR CLAIM ARISING OUT OF OR RELATING IN ANY WAY TO THIS EULA OR YOUR ACCESS TO OR USE OF THE SOFTWARE.

PLEASE REVIEW THIS EULA CAREFULLY. BOSCH MAY, AT ITS DISCRETION, UPDATE THIS EULA AT ANY TIME WITH OR WITHOUT NOTICE TO YOU. YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS EULA, INCLUDING ANY UPDATES COMMUNICATED TO YOU. BY CLICKING ON THE "ACCEPT" BUTTON OR DOWNLOADING, UPLOADING, INSTALLING, ACCESSING OR USING THE SOFTWARE IN ANY WAY, YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA.

IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, DO NOT USE THE SOFTWARE AND PROMPTLY REMOVE THE SOFTWARE PACKAGE FROM THE COMPUTER.

2. GRANT OF LICENSE AND RESTRICTIONS

2.1. Your Authorized Use of the Software. Subject to your compliance with this EULA in all material respects:

2.1.1. If You are an individual person, Bosch grants You a personal, limited, non-exclusive, non-transferable, non-sublicensable, revocable license to use the Software, in object code form only, for the Purpose on the Designated Equipment. "Designated Equipment" shall mean no more than one personal computer per installation of the Software, such computer equipment to be identified by You as the equipment upon which You will be the primary user and intend the Software to be used.

2.1.2. If You are a company or any other type of organization, Bosch grants to You the right to designate one individual person within Your organization to have the non-exclusive right to exercise the rights set forth in Section 2.1.1.

2.2. Delivery and Installation. You shall implement the installation of the Software on the Designated Equipment which has to meet minimum requirements according to Bosch's recommendations as outlined in the Related Materials. "Related Materials" shall mean all materials other than the Software furnished by Bosch and including, for example, Getting Started Guide, CDR Help File, instructional documentation, guides, and all permitted copies of such material made by Licensee. Connections to vehicles and or electronic control units (ECU) for the purposes of retrieving data must be done by

directly connect the CDR tool to the vehicle or ECU using CDR tool cables and/or adaptors approved by Bosch. Any connections to a vehicle or ECU through additional hardware and software which is not part of the CDR tool is prohibited including, but not limited to, indirectly connecting the CDR tool through a wireless OBDII communications device, enabling remote connection to CDR tools over a server or internet server.

2.3. New Versions. Bosch may make available new versions of the Software on its website, affiliate websites and distributor websites but is not obligated to do so. You are responsible for obtaining new Software versions that are made publically available.

2.4. Restrictions on Your Use of the Software. The Software or its components may be used only as expressly authorized in this EULA, and in no other way. You expressly agree NOT to:

2.4.1. Attempt to defeat the mechanism in the CDR free reader software which controls access to functions that are enabled only through a Bosch activation certificate. Bosch activation certificates require an annual subscription through Bosch, approved CDR Tool resellers or distributors;

2.4.2. In whole or in part, alter, copy, disassemble, decompile, reverse engineer, decode, or otherwise attempt to access or derive the source code or architectural framework of the Software;

2.4.3. Remove any copyright or proprietary notices from any part of the Software;

2.4.4. Use the Software as server software for making the Software available for multiple users (simultaneous use) over a network, install it on a server or computer and allow users to access to the Software remotely for the purpose of multi-user access, or install the software on a device for use only by remote users;

2.4.5. Copy (other than once in the process of installing the Software or downloading updates, and once for back-up purposes), distribute, rent, lease, loan, assign, or sublicense all or any portion of the Software;

2.4.6. Modify in any way or prepare derivative works of the source or object code of the Software;

2.4.7. Provide a copy of the Software to anyone who is not bound by this EULA, or permit, allow, or authorize any other person or entity who is not bound by this EULA to use the Software;

2.4.8. Use or permit any other person to use the Software in any way that competes with Bosch's products or services, except as expressly permitted by applicable law;

2.4.9. Attempt to transfer Your rights under this EULA, or delegate Your obligations under this EULA, without Bosch's express prior written permission.

2.5. Except for the right of use pursuant to Section 2.1, Bosch reserves all rights for the Software, in particular exclusive right to reproduce, to distribute, to prepare derivative works therefrom and to publicly display the Software.

3. TERMS OF PAYMENT AND PRICES

3.1. Bosch reserves the right to continue to offer the Software for no charge or increase the price for any updates in the future. Licensee may refuse to purchase an update in the event of price increase. Any failure to renew the software will have no effect on the rights granted to Licensee related to Software which have already been obtained either for free or paid for and installed on Designated Equipment.

4. WARRANTY

- 4.1. The Software and other information delivered to you is provided "As Is" and with all faults.
- 4.2. BOSCH DOES NOT WARRANT THE ACCURACY AND COMPLETENESS OF THE DATA. ALL INFORMATION AND DATA OF THIS PROGRAM HAVE BEEN ACQUIRED BY MEANS OF BOSCH DOCUMENTS, VEHICLE MANUFACTURERS AND INDUSTRY EXPERTS. BOSCH MAKES NO WARRANTY BECAUSE IT CANNOT FULLY EXCLUDE AMENDMENTS, COUNTRY SPECIFIC VARIATIONS, ERRORS OR MISTAKES DUE TO THE EXTENSIVE MATERIAL OF DATA.

Therefore, in each individual case, it shall be assured by Licensee that the vehicle identification as well as the equipment used to read crash data from ECUs on a given vehicle corresponds to the data of the Software.

- 4.3. BOSCH DOES NOT WARRANT THAT THE SOFTWARE OR USE THEREOF WILL BE COMPATIBLE WITH EACH VEHICLE MODEL OR IN CONNECTION WITH OTHER PROGRAMS ON THE SAME COMPUTER. THE WARRANTIES SET FORTH IN THIS SECTION IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 4.4. THE REMEDIES SET FORTH IN THIS SECTION REPRESENT LICENSEE'S SOLE AND EXCLUSIVE REMEDIES FOR ANY BREACH OF WARRANTY BY BOSCH.
- 4.5. THIS INFORMATION SUPPLIED UNDER THIS EULA HAS BEEN COMPILED FOR USE ONLY BY VEHICLE MANUFACTURER PRODUCT EXPERTS, ENGINEERS AND PROFESSIONAL ACCIDENT INVESTIGATION & RECONSTRUCTION SPECIALISTS AND ASSUMES AN APPROPRIATE LEVEL OF SKILL AND COMPETENCE.
- 4.6. Licensee shall promptly inform Bosch of any defect in the Software and submit the appropriate information to enable the Bosch to correct the defect. Bosch shall, at its sole option; correct the defects discovered in the Software or deliver a new version of the Software.
- 4.7. In the event Bosch cannot detect the defect or the defect resulted from misuse or other circumstances that are beyond Bosch's control, Licensee shall bear any costs incurred in the correction of the defect. BOSCH SHALL NOT BE LIABLE FOR ANY DEFECTS IN THE EVENT THAT LICENSEE OR A THIRD PARTY MODIFIES THE SOFTWARE UNLESS LICENSEE PROVIDES EVIDENCE THAT THE CHANGES DID NOT INFLUENCE OR PRODUCE THE DEFECT.

5. LIABILITY

- 5.1. In no event shall Bosch be liable for damages arising out of or related to incorrect, incomplete or misinterpreted Software and/or data. Licensee shall take care to ensure that data supplied hereunder is applicable to the vehicle ECU, the system(s) and the vehicle the data was retrieved from.
- 5.2. IN NO EVENT SHALL BOSCH BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATED TO THE SOFTWARE OR USE THEREOF, BOSCH'S PERFORMANCE OR FAILURE TO PERFORM ANY OF ITS OBLIGATIONS HEREUNDER, WHETHER THE CLAIMS BE IN CONTRACT OR TORT, INCLUDING NEGLIGENCE OR STRICT LIABILITY. LICENSEE'S SOLE AND EXCLUSIVE REMEDY AFTER ACCEPTANCE OF THE SOFTWARE SHALL BE THE REMEDY AVAILABLE UNDER THE WARRANTY PROVISION.
- 5.3. Licensee shall appoint only qualified staff and use appropriate test equipment or tools to use the Software. Where applicable, Bosch recommends the use of appropriate test equipment and tools as specified in the vehicle manufacturer's issued service manuals.

5.4. Bosch shall not be responsible for any damage claim arising from Licensee's failure to comply with the provisions of this EULA.

6. TERM/ DURATION

6.1. This EULA is effective and binding until terminated.

6.2. You may terminate this EULA at any time by returning, destroying, erasing, and/or deleting all copies of the Software, in their entirety, that are in your custody or control.

6.3. This EULA shall automatically terminate immediately and without notice to You if: (a) You fail to comply with any of the terms and conditions of this EULA. In such event, You must return, destroy, erase, and/or delete all copies of the Software, in their entirety, that are in your custody or control; or (b) You purchase an activation certificate to enable additional functionality of the Software at which time the terms and conditions of the Activation EULA will supersede this EULA.

6.4. Bosch may have other legal rights upon such termination, which it reserves and does not waive.

6.5. Sections 2.4 and 8-11 of this EULA shall remain effective and binding upon You after termination of this EULA. The survival of such sections after termination of this EULA does not give You any right to use the Software in any way after such termination.

7. OPEN SOURCE SOFTWARE

7.1. The Software may include open source software components. Relevant information and details may be found at: c:\Program Files (x86)\Bosch\VTX-VCI.

8. CONFIDENTIALITY OF THE SOFTWARE

8.1. You acknowledge and agree that parts of the source code for the computer programs underlying the Software are a Bosch trade secret. You agree that any efforts by You to reverse engineer, decode, decompile, disassemble or otherwise attempt to access or derive the source code or architectural framework of the Software, or any other efforts to learn the contents of such source code, could result in Your access to or knowledge or disclosure of such trade secrets without Bosch's permission, and that such access, knowledge, or disclosure could violate Bosch's trade secret rights and cause Bosch immediate and irreparable injury, entitling Bosch to obtain a preliminary and/or permanent injunction against You.

8.2. Pursuant to the Defend Trade Secrets Act of 2016, 18 USC Section 1833(b) (the "DTSA"), Recipient is on notice and acknowledges that, notwithstanding the foregoing or any other provision of this EULA:

8.2.1. An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that- (A) is made- (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

8.2.2. individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual- (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

9. DATA PRIVACY AND PROTECTION.

9.1. Licensee agrees that the users of the CDR tool and Software are obligated to be familiar with and

follow applicable laws and regulations with respect to data privacy and general data protection regulations (e.g., US Driver Privacy Act of 2015, and the EU General Data Protection Regulation) related to the collection of data from vehicles, including but not limited to Event Data recorded as the result of a crash or active/passive safety system related events. Data collected from the vehicle and subsequently saved to a CDR file may contain Personally Identifiable Information (PII) including but not limited to Vehicle Identification Number (VIN), date & time the event data was recorded and, in some cases, Global Positioning System (GPS) data. Depending on the applicable local, regional, federal, or EU laws and regulations, compliance to regulations may require consent from the vehicle owner or sufficient legal authority may be required to access recorded data prior to retrieval of data from the vehicle using the CDR tool as well as compliance with the GDPR when processing and handling the data stored in the CDR file. Licensee also agrees that it is incumbent on the users of the CDR tool and Software to ensure compliance with applicable laws and regulations.

10. JURISDICTION

10.1. All disputes involving this EULA, except actions arising under the copyright provision of Title 17 of the U.S. Code, shall be determined under the law of the State of Michigan and shall be submitted to an arbitrator appointed and operating under the Uniform Arbitration Act and the procedural rules of the American Arbitration Association (hereinafter "AAA"). The locations of the arbitration hearing will be Oakland County, Michigan, or such other location as agreed to by the parties. Within thirty (30) days after either party has notified the other in writing that it is submitting a dispute to arbitration, one arbitrator shall be chosen under the then current Rules of the AAA pertaining to commercial disputes. Neither party shall be allowed to object to any arbitrator appointed by AAA. The ensuing arbitration shall be conducted according to the Rules of the AAA. The written decision of the arbitrator shall be final, binding and enforceable in any court of the United States or Canada with appropriate jurisdiction. In no case shall the arbitrator be authorized to award cost and damages otherwise prohibited herein. The application of the collision law as well as the Hague Conventions Relating to a Uniform Law on the International Sales of Goods, the United Nations Uniform Purchase Rights and other Conventions on Contracts for the International Sale of Goods shall be excluded.

11. MISCELLANEOUS

- 11.1. You shall not: (a) permit any third party to access or use the Software in violation of any U.S. law or regulation; or (b) export the Software or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, Customer shall not permit any third party to access or use the Software in, or export it to, a country subject to a United States embargo
- 11.2. You agree to receive periodic email notices announcing CDR Tool updates, new activation certificates and software subscription status notices designed to inform You of pending expiration of said subscriptions. If You wish to opt-out of these such emails, You agree to contact their CDR Tool sales representative and request that Your account on the CDR software license server be deleted or suspended.
- 11.3. You shall uninstall and destroy, within one week after this EULA has terminated, the Software as well as all complete or partial copies thereof, whether altered or embedded in other programs, as well as any documentation, and shall provide a written confirmation thereof to the Bosch.
- 11.4. Modifications or supplements to this EULA - including this Section 11.4 shall be valid only when provided in writing and signed by both parties.
- 11.5. Should any provision of this EULA be invalid or become invalid, then such provision shall be severed from this EULA and the other provisions shall remain in full force and effect. Any invalid provision shall be replaced by a reasonable provision which is permissible under the law and which reflects the intent of the original provision.