

**SERVICES AGREEMENT
BETWEEN THE CITY OF TACOMA, WASHINGTON
AND SENSYS AMERICA, INC. FOR
TRAFFIC INFRACTION DETECTION & ENFORCEMENT PROGRAM**

This **AGREEMENT** (the “**Agreement**”) made this ____ day of March, 2018, by and between Sensys America, Inc., a Delaware corporation having a place of business at 8018 Sunport Drive, Suite 203, Orlando, Florida 32809 (“**Sensys**”), and the City of Tacoma, a municipal corporation of the State of Washington, having an address at 3701 South Pine Street, Tacoma, Washington 98409 (the “**Customer**” and together with Sensys, the “**Parties**” and each singularly a “**Party**”).

WITNESSETH:

WHEREAS, pursuant to the Municipal Code of the City of Tacoma, Washington, Title 11: Traffic, Chapter 11.60, § 11.60.010, as amended, the Customer may implement an automated photo enforcement program;

WHEREAS, Sensys has the knowledge, possession, and ownership of certain equipment, licenses and processes, referred to collectively as the Sensys Safety System (the “**System(s)**”);

WHEREAS, the Customer desires to use the Systems to monitor and enforce speed, red light violations and other violations in accordance with applicable laws and ordinances;

WHEREAS, the Parties desire to enter into this Agreement, whereby Sensys will (i) install and assist the Customer in the administration and operation of the Systems, as described in more detail on *Exhibit A* to this Agreement at the locations within the Customer’s jurisdiction, and provide to the Customer the services (the “**Services**”), all as more fully described on *Exhibit A*, and (ii) in connection with the Services, license certain software and lease certain equipment to the Customer.

NOW, **THEREFORE**, in consideration of the mutual terms, covenants, and conditions contained herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **RECITALS AND EXHIBITS.** The foregoing recitals are true and correct and are hereby incorporated in *haec verba*. All exhibits attached to this Agreement contain additional terms of this Agreement and are hereby incorporated in *haec verba*.
2. **SERVICES**
 - 2.1. Sensys agrees to use commercially reasonable efforts to install and provide to the Customer for the Term the Systems (the “**Equipment**”) and software (the “**Software**”) to be supplied and installed by Sensys in accordance with *Exhibit A*

(including the provision of all construction drawings, permit applications and other documents required by applicable law for the installation and operation of the System(s)). In addition, if and to the extent set forth in *Exhibits A, B, C, and D*, Sensys shall also supply to the Customer:

- 2.1.1. citation preparation processes that assist the Customer in complying with current applicable law;
 - 2.1.2. training of personnel designated by the Customer involved with the operation of the Systems and/or the enforcement and disposition of citations;
 - 2.1.3. expert witness testimony regarding the operation and functionality of the System; and
 - 2.1.4. other support services for the System as set forth in *Exhibit A*.
- 2.2. If and to the extent the Customer has or obtains during the Term custody, possession or control over any of the Equipment or Software, the Customer agrees:
- 2.2.1. such Software, if manufactured or licensed by Sensys, is supplied under the license set forth in *Exhibit B* (the “**License**”) to which the Customer agrees;
 - 2.2.2. such Software, if manufactured by third parties, is supplied under third-party licenses accompanying the Software, which licenses the Customer acknowledges receiving and to which it hereby agrees; and
 - 2.2.3. such Equipment is supplied under the lease terms set forth in *Exhibit C* (the “**Lease**”) to which the Customer hereby agrees.
- 2.3. The Customer understands and agrees that (i) Sensys may, subject to the prior approval of the Customer, which approval shall not be unreasonably delayed, conditioned or withheld, subcontract with third parties for the provision or installation of part or parts of the Systems or Services and (ii) installation of the Systems requires the Customer’s cooperation and compliance with Sensys’ reasonable instructions (including but not limited to Customer’s provision of the personnel, equipment, engineering plans, and other resources as described in *Exhibit A* or as otherwise reasonably requested by Sensys) and reasonable access by Sensys (or such third parties) to Customer premises and systems and the Customer agrees to provide all of the foregoing to Sensys.
- 2.4. The Customer understands and agrees that the Systems will be owned by Sensys (or its designees). The Customer shall use its best efforts to assist Sensys to identify any third-party who is responsible for damage to the Systems or any part thereof.

2.5. Sensys shall coordinate its work with the Customer's police, public works and engineering departments and, as necessary or required, with the Department of Transportation.

3. TERM

3.1. The effective date of this Agreement shall be the date first written above (the "**Effective Date**"). The initial term (the "**Initial Term**") of this Agreement, the License and the Lease shall begin upon the Effective Date, following full execution of the Agreement by the Parties, and shall continue until the fifth (5th) anniversary of the Installation Date (the "**Installation Date**").

3.2. The Customer shall have the option to extend this Agreement, the License and the Lease for one (1) additional three (3) years and one (1) additional two (2) years terms (each, a "**Renewal Term**"), on the same terms and conditions specified herein except that the amounts due pursuant to Section 5 hereof shall be adjusted in accordance with the change in the Consumer Price Index – All Urban Consumers – U.S. City Average ("**CPI**") by multiplying said amounts by the percentage change in the CPI from the beginning of the immediately preceding term to the end of the immediately preceding Term. (Each Renewal Term, if any, together with the Initial Term, the "**Term**"). The "**Installation Date**" shall be the latest date that a System becomes installed and operational at any of the originally selected locations described in Sections 1.A or 1.B of *Exhibit A*.

4. TERMINATION AND EXPIRATION

4.1. This Agreement may be terminated by mutual written consent of the Parties.

4.2. This Agreement may be terminated for cause, by either Party if the other Party fails in any material way to perform its obligations under the Agreement or otherwise defaults in the performance of any obligation under this Agreement and such failure or default continues for more than forty-five (45) days after written notice thereof to the defaulting Party.

4.3. Sensys may terminate this Agreement, without liability, on thirty (30) days advance written notice if Sensys concludes in its reasonable discretion that (i) potential or actual liability of Sensys to third parties (other than persons claiming to own Intellectual Property required for the operation of the System) arising out of or in connection with the System makes the program impractical, uneconomical or impossible to continue.

4.4. The Customer may terminate this Agreement on thirty (30) days advance written notice if the Customer concludes in its reasonable discretion that (i) potential or

actual liability of the Customer to third parties arising out of or in connection with the System makes the program impractical, uneconomical, legally contested or impossible to continue; and/or (ii) the Systems cannot be installed. Violation of the City of Tacoma ethics code would constitute cause to terminate this agreement.

- 4.5. Upon termination or expiration of this Agreement, either for default or because it has reached the end of its term, the Parties recognize that the Customer will have to process violations in the “pipeline,” and that Sensys accordingly must assist the Customer in this accord. Accordingly, the Parties shall take the following actions during the wind-down period, and shall have the following obligations, which obligations shall survive termination or expiration of the Agreement:
- 4.6. The Customer shall cease using the Software and Equipment in its possession, custody or control and shall (a) immediately allow Sensys a reasonable opportunity to remove such Equipment not to exceed sixty (60) days and (b) (i) immediately deliver to Sensys or irretrievably destroy, or cause to be so delivered or destroyed, any and all copies of such Software in whatever form and any written or other materials relating to such Software in the Customer’s possession, custody or control and within thirty (30) days deliver to Sensys a certification thereof or (ii) allow Sensys reasonable access to the System(s) on which such Software is loaded and permission to Sensys to remove such Software and documentation.
- 4.7. Unless directed by the Customer not to do so, Sensys shall continue to process all images taken by the Customer before termination and provide all services associated with processing in accordance with this Agreement, and shall be entitled to reasonable fees specified in the Agreement as if the Agreement were still in effect.
- 4.8. Notwithstanding anything to the contrary contained herein, or in the License or the Lease, but except as provided in Section 21, the License and the Lease shall terminate upon the termination or expiration of this Agreement.

5. FEES AND PAYMENT

The Customer agrees to pay Sensys a monthly fee as follows (the “**Monthly Fees**”):

- 5.1. **Monthly Fees** (pro rated for any partial month) as described in *Exhibit D* (Compensation & Pricing) in arrears with respect to each approach at which a System has been installed. Such payment shall commence on the first business day of the month following Commencement of Operations of each System and shall continue on the first business day of each month for the Term or until this Agreement is sooner terminated or such payment is modified in accordance with Section 3.2. For purposes of this Agreement, “**Commencement of Operations**”

shall mean the first full day that the System captures events for processing and issuance of notices of violation.

5.2. The Customer, being a Municipal Corporation, shall pay sales tax in accordance with WAC 458-20-189. Accordingly, Sensys shall add sales tax to the invoices provided to the Customer in compliance with Washington State Law.

5.3. In the event that the United States Postal Service increases applicable First Class Mail and/or Certified Mail postage, Sensys may invoice the Customer for the increased postage actually paid by Sensys in connection with this Agreement. For example, if First Class Mail postage were increased by \$0.02, and Sensys mailed 1,000 notices, Sensys would invoice the Customer \$20.00.

5.4. Payment of all fees and other charges owed pursuant to this Agreement is due as set forth above, and, to the extent invoice is required, within thirty (30) days after receipt of the invoice. Invoices will be sent to the Customer at:

MaryAnn.Clabaugh@CityofTacoma.org

5.5. Notwithstanding anything in this Agreement to the contrary, if amounts due to Sensys pursuant to Section 5.1 in any month during the Term plus any amounts due to Sensys pursuant to this Section 5.5 (“**Monthly Photo Enforcement Fees**”) exceed the revenue generated by operation of the Systems and actually received by the Customer during that same month (“**Monthly Photo Enforcement Revenue**”) then the Customer shall pay to Sensys for such month only the amount of Monthly Photo Enforcement Revenue. In such case, the difference between Monthly Photo Enforcement Fees and Monthly Photo Enforcement Revenue (a “**Payment Shortfall**”) shall be accumulated and added to the Monthly Photo Enforcement Fees for the following month. Payment Shortfalls, if any, shall accumulate from month-to-month until paid in full, provided that under no circumstances shall the Customer ever be required to make a payment of Monthly Photo Enforcement Fees to Sensys except from Monthly Photo Enforcement Revenue. At the final expiration of this Agreement (last day of validity of the agreement including any extensions) any accumulated Payment Shortfalls shall be forfeited.

6. RESPONSIBILITIES OF THE CUSTOMER

6.1. The Customer shall provide Sensys with any “as built” drawings in electronic format (AutoCad) that are available at no cost to the Customer and shall consider

for approval Sensys' engineering drawings without unusual or unreasonable cost or delay.

- 6.2. The Customer shall not levy any fees or, if municipal ordinance requires the assessment of fees, it shall be limited to permit fees as required by Tacoma Municipal code 10.22 and Tacoma Public Utilities electrical permits for service.
- 6.3. The Customer shall diligently prosecute citations in court at its own expense. Sensys shall, at its own expense, participate in any proceeding challenging the use of the System or validity of its results and/or use of the U.S. Mails to deliver the citation.
- 6.4. The Customer will cooperate with Sensys in obtaining electrical connections at the roadside and Sensys shall pay all costs associated with such connection and shall pay for all power required by the System.
- 6.5. To allow for proper operation of the System, when known to the Customer, the Customer shall provide Sensys with advance written notice of any modifications proposed to intersections or roadways, including traffic signal operations, after installation of a System. In the event any such intersection or roadway modification requires a material change to the System, the Customer shall pay the costs reasonably incurred by Sensys to adapt the affected video monitoring system(s) or fixed speed enforcement unit(s) to make such video monitoring system(s) or fixed speed enforcement unit(s) compatible therewith. Notwithstanding the above, Sensys makes no guarantee that it will be able to make any such adaptation. In the event that Sensys is unable to adapt the affected System, then both parties shall be relieved of any further obligations under this Agreement with respect only to the affected System. In addition, Sensys does not, and will not, make recommendations or otherwise manage the configuration or operation of the intersection traffic light system.
- 6.6. During the Term, except as expressly permitted by this Agreement the Customer shall not use the System, or allow the System's use by a third party, without the prior written permission of Sensys.

7. LIMITED WARRANTY AND LIMITATION ON DAMAGES

- 7.1. Sensys warrants that the System's functionality will conform in all material respects to the description of the System set forth on *Exhibit A*.
- 7.2. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, SENSYS HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE SERVICES AND

SYSTEM, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, NON-INTERFERENCE WITH ENJOYMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING OR USAGE OF TRADE. THE CUSTOMER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY PROVIDED HEREIN NO OTHER WARRANTIES HAVE BEEN MADE TO MUNICIPALITY BY OR ON BEHALF OF SENSYS OR OTHERWISE FORM THE BASIS FOR THE BARGAIN BETWEEN THE PARTIES.

7.3. The Customer acknowledges and agrees that:

7.3.1. The Systems may not detect every violation;

7.3.2. Since the System may flag as a violation conduct that is in fact not a violation, the output of the System will require review, analysis and approval by personnel appropriately qualified and authorized by the Customer under applicable law prior to the issuance of any citation;

7.3.3. The System has no control over, and relies on the proper functioning of equipment for signal light changes, which equipment is provided by entities other than Sensys;

7.3.4. The proper functioning of the System requires the Customer's full and complete compliance with the Systems' operating instructions, which it hereby agrees to do; and

7.3.5. Sensys shall not be responsible for the configuration and/or operation of any intersection traffic light systems and Sensys shall have no liability or obligations with respect thereto.

8. INDEMNIFICATION AND INSURANCE

8.1. Sensys shall at all times comply with all federal, state and local laws, ordinances and regulations and shall comply with the maintenance procedures and manufacturer's recommendations for operation of the Systems which affect this Agreement, and shall indemnify and save harmless the Customer against any claims, arising from Sensys' violation of any such laws, ordinances and regulations or any claims arising from Sensys' performance of this Agreement, including as a result of the negligence or willful misconduct of Sensys, its officers and directors, agents, attorneys, and employees, but excluding any employees or agents of Customer.

- 8.2.** Sensys agrees to indemnify, defend, and hold harmless the Customer from any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising solely from either (a) a finding that the System infringes any validly issued United States patent or (b) Sensys' negligence, provided that such claim of damages is not attributable to (i) any act or omission set forth in Section 8.3 or (ii) any third-party software or other third-party products used with, required for use of, or supplied under their own names with or as part of the System. If, as a final result of any litigation of which Sensys is obligated to indemnify, the use of the System by the Customer is prevented, in whole or in part, by an injunction, Sensys' sole obligation to the Customer as a result of such injunction shall be, at Sensys' option, either to (i) replace such part as has been enjoined, or (ii) procure a license for Sensys or the Customer to use same, or (iii) remove same and terminate this Agreement at no additional cost to the Customer.
- 8.3.** Notwithstanding anything in this Agreement to the contrary, Sensys assumes no obligation or liability for any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising from or related to (i) any modification of the System made by the Customer, (ii) the negligence or intentional act of the Customer, (iii) the failure to function properly of any hardware, software or equipment of any kind used by, in or on behalf of the Customer (other than that supplied by Sensys), (iv) the review and analysis of the System data output by the Customer personnel for citation preparation, or (v) the Customer's use and/or administration of any traffic signal.
- 8.4.** The rights of the Customer to seek indemnification under this Section 8 shall be conditioned upon (i) the Customer notifying Sensys promptly upon receipt of the claim or action for which indemnification is sought and (ii) the Customer's full cooperation with Sensys in the settlement or defense of such claim or action at no cost to the Customer. The Customer agrees not to charge Sensys for the time of the Customer's personnel engaged in such cooperation. Such cooperation shall include, but not be limited to, the Customer providing access for, and permission to, Sensys for the purpose of the replacement of such part or parts of Systems as Sensys may deem necessary or desirable. The Customer may participate in the defense of any indemnified matter through counsel of its own choice and at its own expense provided that Sensys shall remain in, and responsible for, control of the matter. This Section 8 states the entire liability and obligation and the exclusive remedy of the Customer with respect to any actions or claims (i) of alleged infringement relating to or arising out of the subject matter of this Agreement or (ii) otherwise the subject of this paragraph.
- 8.5.** Sensys shall maintain the following minimum scope and limits of insurance:

- 8.5.1.** Comprehensive general liability insurance including but not limited to coverage for bodily injury, property damage, premises and operations, products/completed operations, personal and advertising injury, and contractual liability, with a combined single limit of \$1,000,000 per occurrence, with an aggregate liability per occurrence of \$2 million. Such insurance shall include the Customer, its officers, directors, employees, and elected officials as additional insured for liability arising from Contractor's operation.
- 8.5.2.** Workers Compensation as required by applicable state law; and
- 8.5.3.** Comprehensive Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by Sensys with a minimum \$1,000,000 per occurrence combined single limit bodily injury and property damage.
- 8.6.** The Customer shall be named as additional insured on the comprehensive general liability policies provided by Sensys under this Agreement. Sensys shall require any subcontractors doing work under this Agreement to provide and maintain the same insurance, which insurance shall also name the Customer and its officers, employees, and authorized volunteers as additional insured.
- 8.7.** Certificates showing Sensys is carrying the above described insurance, and evidencing the additional insured status specified above, shall be furnished to the Customer within thirty (30) calendar days after the date on which this Agreement is made. Such certificates shall show that the Customer shall be notified of all cancellations of such insurance policies. Sensys shall forthwith obtain substitute insurance in the event of a cancellation.
- 8.8.** All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of Washington and shall name as additional insured the Customer. Sensys will furnish the Customer with Certificates of Insurance and applicable endorsements for all such policies promptly upon receipt of them. Sensys may effect for its own account insurance not required under this Agreement.
- 9. CHANGE ORDERS OR ADDITIONAL SERVICES.** Changes to Services and additional Systems may be added to this Agreement by mutual consent of the Parties in writing as an addendum to this Agreement. The Customer and Sensys agree that should legislation or local ordinance be enacted to enable new photo enforcement solutions within the Customer's jurisdiction, the Customer shall have the option to negotiate services and fees and issue a change order to cover such services.

9.1. Project manager, the Customer will appoint a project manager, which shall be an administrative ranked City of Tacoma Police Officer who will have oversight of the installation and implementation of the Sensys systems. The project manager has the authority to make daily operational management decisions. Only the Chief of Police or his/her designee has the authority to authorize additional systems exceeding the original agreement, change orders, request additional services, and extensions.

10. CONFIDENTIAL AND PROPRIETARY INFORMATION; PUBLIC RECORDS LAW COMPLIANCE.

10.1. The Parties agree that they shall comply with the public records disclosure provisions of the Revised Code of Washington, Chapter 42.56, Public Records Act and RCW 46.63.170(g).

10.2. Sensys agrees that:

10.2.1. All information obtained by Sensys through operation of the Systems shall be made available to the Customer at any time during Sensys' normal business hours, excluding Proprietary Information not reasonably necessary for the prosecution of citations or fulfillment of the Customer's obligations under this Agreement.

10.2.2. It shall not use any information acquired from the performance of the Services contemplated in this Agreement, including without limitation, information with respect to any violations, violators, information obtained from recorded images or information concerning the Customer's law enforcement activities for any purpose other than for the benefit of the Customer.

10.2.3. No information given by Sensys to the Customer will be of a confidential nature, unless specifically designated in writing as "**Proprietary Information**" and expressly exempt from public records disclosures required by the Revised Code of Washington, Chapter 42.56, Public Records Act.

10.2.4. As used in this Agreement, the term "Proprietary Information" shall mean all trade secrets or confidential or proprietary information designated as such by Sensys, whether letter or by the use of an appropriate proprietary stamp or legend, prior to or at the time any such trade secret or confidential or proprietary information is disclosed by Sensys to the Customer. In addition, the term "**Proprietary Information**" shall be deemed to include: (a) any notes, analyses, compilations, studies, interpretations, memoranda

or other documents prepared by the Recipient which contain, reflect or are based upon, in whole or in part, any Proprietary Information furnished to the Recipient.

10.2.5. The Customer shall use the Proprietary Information only for the purpose of fulfilling its duties hereunder (the “**Purpose**”) and such Proprietary Information shall not be used for any other purpose without the prior written consent of Sensys. “Purpose” shall be deemed to not include any disclosure of the Proprietary Information to any person or entity. The Customer shall hold in confidence, and shall not disclose to any person or entity, any Proprietary Information nor exploit such Proprietary Information for its own benefit or the benefit of another without the prior written consent of Sensys.

10.2.6. Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not prohibit the Customer from disclosing Proprietary Information to the extent required in order for the Customer to comply with applicable laws and regulations, provided that the Customer provides prior written notice of such required disclosure to Sensys.

11. INDEPENDENT CONTRACTOR; NO AGENCY.

11.1. It is understood that Sensys is an independent contractor and not an agent or employee of the Customer for any purpose including, but not limited to, federal tax and other state and federal law purposes. Sensys assumes responsibility for payment of all federal, state and local taxes imposed or required of Sensys under unemployment insurance, Social Security and income tax laws. Sensys shall be solely responsible for any worker’s compensation insurance required by law and shall provide the Customer with proof of insurance upon demand. The parties agree that the Customer shall not:

11.1.1. Pay dues, licenses or membership fees for Sensys;

11.1.2. Require attendance by Sensys, except as otherwise specified herein;

11.1.3. Control the method, manner or means of performing Services under this Agreement, except as otherwise specified herein; or

11.1.4. Restrict or prevent Sensys from working for any other party.

11.2. Neither party has the right or the power to enter into any contract or commitment on behalf of the other party, including entering into agreements with third parties, exercising incidents of ownership with respect to property owned by the Party or executing contracts binding upon the other Party.

11.3. Sensys is an independent contractor providing services to the Customer and the employees, agents and servants of Sensys shall in no event be considered to be the employees, agents, or servants of the Customer. Except as expressly provided herein, this Agreement is not intended to create an agency relationship between Sensys and the Customer.

12. NOTICES.

12.1. Any notices or demands which under the terms of this Agreement or under any statute must or may be given or made by Sensys or the Customer shall be in writing and shall be given or made by personal service, telegram, first class mail, FedEx, or by certified or registered mail to the Parties at the address specified in the preamble to this Agreement.

12.2. Except as otherwise specified, all notices, payments and reports hereunder shall be deemed given and in effect as of the date of mailing or transmission, as the case may be, when sent by next day delivery or courier service, postage pre-paid, or three (3) days after the date of mailing when sent by first class mail, postage pre-paid, addressed in all such cases to the Parties as set forth in the preamble to this Agreement directed in each case to the President of Sensys at the address in the preamble or the Chief of Police of the Customer at the address in the preamble, or to such other addresses as the Parties may from time to time give written notice of as herein provided.

13. ASSIGNMENT. Except as specifically provided in this Agreement, neither Party may assign, or delegate performance of its obligations under, this Agreement, without prior express written consent of the other Party, except that Sensys may assign or otherwise encumber this Agreement, the License and the Lease for the purpose of obtaining financing; provided, however, that this Agreement may be assigned to any Person that acquires all or substantially all of Sensys' assets in one transaction.

14. AMENDMENT AND MODIFICATION. This Agreement may be modified or amended from time to time by the Parties, provided, however, that no modification or amendment hereto shall be effective unless it is stated in writing, specifically refers to this Agreement and is executed on behalf of the Party against whom enforcement of such modification or amendment is sought.

15. NON WAIVER. The failure of either Party to require performance of any provision of this Agreement shall not affect the right to subsequently require the performance of such provision or any other provision of this Agreement. The waiver of either Party of a breach of any provision shall not be taken or held to be a waiver of any subsequent breach of that provision or any subsequent breach of any other provision of this Agreement.

16. FORCE MAJEURE. Neither Party shall be liable to the other for failure or delay in meeting any obligations hereunder which arises in whole or in part from causes which are unforeseen by, or beyond the control of, such Party, including without limitation, acts of God or of a public enemy, acts of terrorism, acts of the Government (other than the Customer in the case of the Customer) in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, acts or omissions of (i) non-subcontractor third-parties and (ii) third party equipment, telecommunications and software suppliers, and unusually severe weather. When any such circumstance(s) exist, Sensys shall have the right, in its sole discretion, to allocate its available production, deliveries, services, supplies and other resources among any and all buyers (whether or not including the Customer), as well as among departments and affiliates of Sensys, without any liability to the Customer.

17. DISPUTE RESOLUTION AND REMEDIES.

17.1. All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good-faith negotiation between the Customer's appointed Manager and the President of Sensys, followed if necessary within thirty (30) calendar days by professionally-assisted mediation. Any mediator so designated must be acceptable to each party and must be a certified mediator in the State of Washington. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties.

17.2. Failing resolution through negotiation or mediation, all actions, disputes, claims and controversies under common law, statutory law or in equity of any type or nature whatsoever, whether arising before or after the date of this Agreement, and whether directly or indirectly relating to: (a) this Agreement and/or any amendments and addenda hereto, or the breach, invalidity or termination hereof; (b) any previous or subsequent agreement between the parties; and/or (c) any other relationship, transaction or dealing between the parties (collectively the "**Disputes**"), will be subject to and resolved by binding arbitration pursuant to the Commercial Arbitration Rules of American Arbitration Association. Any award or order rendered by the arbitrator may be confirmed as a judgment or order in any state or federal court of competent jurisdiction within the federal judicial district which includes the residence of the Party against whom such award or order was

entered. The prevailing Party in any arbitration shall be entitled to reasonable attorney fees and costs.

- 18. GOVERNING LAW; JURISDICTION; VENUE.** The parties agree that this Agreement is consummated, entered into, and delivered in Pierce County, Washington. Notwithstanding conflicts of laws provisions, this Agreement has been and is to be governed by, construed, interpreted and enforced in accordance with the laws of the State of Washington. In the event that any litigation is commenced by either party to enforce this Agreement, the action will be filed and litigated, if necessary, solely and exclusively in a State court of competent jurisdiction located in Pierce County, Washington. The parties waive any and all rights to have this action brought in any place other than Pierce County, Washington, under applicable venue laws. The Parties hereby irrevocably waive any and all rights to have this action brought in any place other those stated herein. The Parties hereby irrevocably waive any claim that any such action has been brought in an inconvenient forum.
- 19. ATTORNEY’S FEES AND COSTS.** In the event arbitration is commenced to enforce this Agreement, costs of said suit including reasonable attorney’s fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing Party by the other Party.
- 20. GENERAL AND MISCELLANEOUS.**

 - 20.1.** Time shall be of the essence of this Agreement.
 - 20.2.** In this Agreement, wherefore the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made.
 - 20.3.** Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this Agreement.
 - 20.4.** Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a member of judicial construction, be construed more severely against one of the parties than the other.
 - 20.5.** This Agreement may be executed in counterparts, each constituting a duplicate original, but such counterparts shall constitute one and the same Agreement.
 - 20.6.** The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement from and after the Effective Date.

- 20.7.** Each Party to this Agreement agrees to do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the Customer, the Parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.
- 20.8.** Except as set forth in this Agreement and the Exhibits hereto, no representation, statement, understanding or agreement, whether written or oral, has been made and there has been no reliance on anything done, said or any assumption in law or fact with respect to this Agreement for the duration, termination or renewal of this Agreement other than as expressly set forth in this Agreement and there has been no reliance upon anything so done or said that in any way tends to change or modify the terms or subject matter of this Agreement or to prevent this Agreement from becoming effective.
- 20.9.** This Agreement supersedes any agreements and understandings, whether written or oral, entered into by the Parties hereto prior to the Effective Date of this Agreement.
- 21. SURVIVABILITY.** Termination or expiration of this Agreement shall not relieve either Party of their respective obligations, which are expressly noted to survive termination or expiration or under the following sections which shall survive termination and expiration: Sections 4.5, 5, 7.2, 7.3, 8, 10, 17, 18, 19, 20, and this Section 21. Sections 4, 7 and 8 (but only to the extent Section 8 corresponds to Sections of the Agreement which survive) of the License and Sections 3, 4, 5, 6, 7 and 8 (but only to the extent Section 8 corresponds to Sections of the Agreement which survive) of the Lease shall survive any expiration or termination of this Agreement, the License or the Lease.
- 22. SEVERABILITY.** If any covenant or provision of this Agreement is, or is determined to be, invalid, illegal or unenforceable by a court of competent jurisdiction, then such covenant or provision will be ineffective only to the extent of such prohibition or invalidity. All remaining covenants and provisions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision of this Agreement shall be deemed to be dependent upon any covenant or provision so determined to be invalid, illegal or unenforceable unless otherwise expressly provided for herein. The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party shall not affect the validity of any other provision or covenant hereof or herein contained which shall remain in full force and effect.

23. Each party acknowledges that it has read this Agreement and understands the terms and conditions herein. Further, the parties have caused this Agreement to be executed on its behalf by the authorized officer whose signature appears below under its name, to be effective as of the date written above.

IN WITNESS WHEREOF, the Parties hereto have set their hands by their duly authorized representatives as of the day and year first above written.

Sensys America, Inc.

Carlos Lofstedt
President and CEO

City of Tacoma, Washington

Name
Title

EXHIBIT A SERVICES

Sensys shall provide the Customer with the Systems. In connection with furnishing the Systems, Sensys shall provide the following, each of which is more fully described below:

1. SITE INSTALLATION PLANNING; DESIGN AND EQUIPMENT INSTALLATION
 2. TRAINING AND SUPPORT
 3. CITATION PREPARATION AND PROCESSING SERVICES
 4. MAINTENANCE
 5. PUBLIC EDUCATION CAMPAIGN
 6. EXPERT WITNESS TESTIMONY AND COURT TRAINING
 7. REPORTING
-
1. **SITE INSTALLATION PLANNING, DESIGN AND EQUIPMENT INSTALLATION**

1.1. The Systems.

- 1.1.1. Sensys will initially install sixteen (16) Systems (which shall remain property of Sensys), monitoring such locations as the Customer and Sensys shall mutually agree. Up to fifty (50) additional Systems may be added at the option of the Customer with Sensys' consent. None of the quantities mentioned under this paragraph shall be interpreted as mandatory quantities. The actual quantities to be installed can only be approved by the City. The installation of any system will require the written approval of the Chief of Police or its designee. Each System shall comprise equipment capable of monitoring violations at a single approach to an intersection for up to five lanes of traffic. Sensys will install new Systems upon mutual agreement of the Parties. School zone fixed speed enforcement systems, will conduct enforcement while beacon systems are in an activated state within the identified school zone. Sensys will ensure School zone fixed speed enforcement systems are integrated with City of Tacoma, Public Works school zone flashing beacons.
- 1.1.2. Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate. The image must not display the face of the driver or of passengers in accordance with RCW 46.63.170 (d).
- 1.1.3. The Systems shall include all equipment located at each intersection, telecommunications equipment, and Software and shall have the capability of transferring images from the roadside in accordance with RCW

46.63.170 to be accessed at the Customer's Police Department processing facility.

- 1.1.4. Substitution, Relocation, or Addition of a Site. If Sensys or the Customer reasonably determines that one or more Sites selected for installation of a System is not for any reason appropriate for the System (and such determination is made at least fifteen (15) days prior to the commencement of installation of the System at any such intersection), then alternate intersection(s) may be substituted by written consent of the Parties. If the average monthly violation collected from any individual system does not meet the level required for the individual system to be cost neutral for a period of twelve (12) consecutive months, the Tacoma Police Department shall have the right to request relocation of the system to a more effective location. This request must be in writing and before twenty four (24) months of the expiration of the contract or any of its extensions. Sensys shall have the option to comply or to reduce the fee temporarily or permanently to a level equal to the violation (revenue) collected from that individual system.
- 1.1.5. Timeframe for Installation of the System. Sensys shall install and activate the Systems in accordance with an Implementation Plan to be mutually agreed to by Sensys and the Customer, which installation shall, at minimum, conclude within sixty (60) days after all necessary permits and approvals are received by Sensys. Sensys shall use reasonable commercial efforts to install the System in accordance with the schedule set forth in the Implementation Plan. The Customer agrees that the estimated dates of installation and activation of the System set forth in the Implementation Plan are subject to delay based on conditions beyond the control of Sensys and are not guaranteed.
- 1.1.6. Installation/Ownership of the System. Sensys shall procure, install and provide support of Equipment at each of the agreed upon locations. As between Sensys and the Customer, all components for the System will remain the property of Sensys.

1.2. Installation

- 1.2.1. Sensys shall submit plans and specifications to the Customer for review and approval, which review and approval will not be unreasonably withheld, delayed or conditioned. Sensys shall provide at least three sets of drawings of the wiring for the System circuitry.
- 1.2.2. All cameras and other equipment shall be enclosed in lockable, weather and vandal-resistant housing. All wiring shall be internal to equipment (not

exposed) and if commercially reasonable and if capacity exists, underground in existing traffic signal conduits, except where required to directly interface with the traffic signals and electrical service. Separate conduits or overhead wiring may be used by Sensys if existing conduit(s) are at capacity. If existing conduits are used, the Customer will not unreasonably withhold, delay or condition consent to such use.

- 1.2.3. Sensys will not enter City of Tacoma Traffic Signal Control Boxes without permission and/or authorization of City of Tacoma Traffic Engineering/Public Works.
- 1.2.4. The provision, installation, and maintenance of all necessary electronic system communication equipment will be the sole responsibility of Sensys.
- 1.2.5. The System may be mounted on or utilize support of existing traffic signal poles, arms or other intersection structures where possible, subject to Customer review and approval, such review and approval not to be unreasonably withheld, delayed or conditioned.
- 1.2.6. The System poles, foundations, signs, and new infrastructure, as required, shall conform to applicable law.

1.3. Restoration of Intersections. Upon termination or expiration of the Agreement, Sensys shall remove the System and restore the affected public facilities including returning the intersections to their original condition; provided, however, that Sensys shall not be required to remove any conduit, in-ground fixture, underground wiring or other infrastructure that will require excavation or demolition. All costs incurred by Sensys thereby will be the responsibility of Sensys.

1.4. Compliance with Law. Sensys shall design and install the System in compliance with all currently existing federal, state and local laws and regulations. Sensys covenants and agrees that its Systems shall, at all times, comply with all applicable laws, regulations, rules and orders (“Legal Requirements”). Sensys shall continuously monitor the status of such Legal Requirements to ensure continuous compliance. In the event of any change in the Legal Requirements, Sensys shall modify or replace (at its sole cost) all or any portion of its non-compliant Safety Systems. Any such modification shall be effected by Sensys in a reasonable period of time (not to exceed ninety (90) days for modification or one hundred eighty (180) days for complete system replacement) and Sensys’ failure to effect such modification or replacement in a timely manner shall be grounds for the Customer to terminate this Agreement for cause. Any such termination shall not relieve Sensys of its obligation to restore each site to its original condition.

2. **TRAINING OF CUSTOMER PERSONNEL.** After System installation, Sensys shall provide up to eight (8) hours of training for up to ten (10) persons at two (2) sessions at the Customer's facilities to acquaint Customer personnel with System operation. Training shall consist of instructional and operational training as well as hands-on equipment exercises with an instructor. All necessary training materials and documentation will be provided by Sensys at Sensys' expense. Sensys shall make all such training services available to the Customer prior to the end of the thirty (30) day period following the Installation Date. If the Customer requests additional courses or training, Sensys shall provide these on a cost reimbursement basis. Additionally, Sensys' will provide and maintain a web based training service that includes basic operation instructions as well any system or procedure changes to ensure continuity for court personnel and law enforcement end users.

3. **CITATION PREPARATION AND PROCESSING SERVICES**

3.1. Citation Preparation and Processing. Sensys shall perform the initial review of all data generated at the roadside, process and format violations utilizing a computerized traffic citation program that shall store all information required for citation processing by state, local law, and in accordance with court of jurisdiction specification, transfer the citations to the Police Department's computer for review and decision on whether or not to issue a citation. If Sensys is permitted by applicable law or regulation to do so, Sensys shall also review all DMV information and print and mail citation forms. Sensys shall pay all mailing and postage costs, and such other miscellaneous costs and expenses as may be reasonably necessary to issue a citation and deliver it by U.S. mail. To the extent required by applicable law, Sensys shall obtain a certification of mailing issued by the Post Office. Notwithstanding anything to the contrary in the foregoing provisions of this Section 3.1, Sensys will not process nor support any citations not captured by the System and/or approved by the Customer.

3.2. Officer Discretion. Sensys' recognizes and agrees that the decision to issue or dismiss a citation shall be the sole and exclusive decision of a sworn officer of the Tacoma Police Department. In no event shall any Sensys employee or representative have the ability to authorization or dismiss any citations.

3.3. Mailing of Citations. Citations shall be mailed to the violator as soon as is reasonably practicable, and in no event longer than ten (10) business days after being approved by the Customer and Sensys has been notified of such approval. The form of citation shall be subject to the approval of the Customer, which approval may not be unreasonably delayed, conditioned or withheld.

- 3.4. Cooperation With Police and the Courts. Sensys shall be responsible for, and pay for the cost of issuing and the mailing in accordance with applicable law. Sensys shall coordinate with the Customer and the Courts, and shall comply with the applicable law and court procedures regarding the mailing and other requirements necessary for the issuance and processing of Traffic Citations. All citations shall be reviewed and approved by the Customer's Police Department prior to mailing. In addition, Sensys will cooperate with the Courts to set up the necessary communications, systems for processing and upon request establish procedures that will enable Sensys to send delinquent notices to those registered owners/drivers for whom such notices are appropriate.
- 3.5. Rental car and business vehicles. Sensys will coordinate with the Customer and Courts to establish an acceptable procedure to streamline and coordinate the processing, notification, and accountability of rental car violation and corporate vehicle violations.
- 3.6. Preparation of Evidence Packages. Sensys shall provide electronic copies of evidence packages in such form as may be reasonably agreed upon with the courts to enable the Customer to enforce its citations in court.
- 3.7. Access to License Information. Sensys shall maintain the ability to access the license information and the registered owner residence address for all US registered vehicles, and the per-request fee for information, if any, shall be paid by Sensys. If possible, Sensys will identify rental vehicle and corporate vehicle violations to migrate and merge original violation with rental and business nomination for appropriate processing needs. If Sensys is unable to access such information, Sensys shall provide the make and license plate number of each violator to the Customer, which will obtain and input the information into the System, or provide such information to Sensys, within a reasonable period of time.
- 3.8. Numbering System. Sensys, in coordination with the Customer, shall develop and implement an independent numbering system for automated red light citations and correlating the original violations with nominations.
- 3.9. Transmission of Information. Sensys shall make all citation information available via an electronic file using comma separated value files on a secure FTP site. Sensys shall maintain a documented chain of custody for all electronically transmitted information while the information is under Sensys' control.
- 3.10. Customer Service. Sensys shall provide an automated customer service telephone number to the public. Customer Service Representatives will be available Monday through Friday, from 10:00 a.m. to 5:00 p.m. local time (of the Customer),

excluding holidays, in order to schedule violation video viewing appointments for the courts and to answer basic questions regarding the Customer's program.

4. MAINTENANCE

- 4.1. Maintenance of System. Except as provided herein, Sensys shall Maintain the System (as such term is defined below); provided however, that Sensys shall not be responsible for any maintenance, repair or replacement required as a result of (i) the negligence or intentional act of the Customer, its employees, agents or independent contractors (other than Sensys) and/or (ii) any equipment or software not provided by Sensys. Sensys shall maintain a maintenance log that documents all service issues. To "Maintain the System" shall mean to keep the System in a state of operation such that the System's functionality and operation conforms in all material respects to the description of the System set forth in this Exhibit. All problems shall be documented and repairs commenced within seventy-two (72) business hours after the time Sensys receives notice thereof. Sensys shall also install all software revisions for Systems as and when developed and made commercially available by Sensys. Sensys is responsible to ensure systems are operational. Sensys will repaired and upgrade as needed, including any vandalized equipment, and maintain a reasonably clean appearance and in a graffiti-free condition.
- 4.2. Equipment Checks. Sensys shall use commercially reasonable efforts to perform remote camera and equipment checks to confirm proper operation of computers, cameras and communications network. Routine in-field camera equipment inspection will be done as needed. The System shall have the capability of on-line monitoring of all cameras at each intersection.
- 4.3. Sensys will conduct routine testing, evaluation, and monitor the system to ensure the system is operational. If a deficiency, malfunction, or failure of the system is detected Sensys will notify the Tacoma Police Department within 72 hours by written or electronic notification. If the system cannot be restored or repaired to full functional capability within 7 consecutive calendar days Sensys will reduce the fee to reflect the time the system is deficient, malfunctioning, or failing. The fee reduction shall be applied to the effected billing cycle and continue until the system is restored to full operation. This reduction shall be identified on the billing statement to the Tacoma Police Department.

5. PUBLIC EDUCATION CAMPAIGN

- 5.1. Public Awareness Program. Sensys shall assist the Customer with a Public Awareness Program. Such assistance shall consist of:
- 5.1.1. Paying for and installing all signage required by State law and local ordinance or as otherwise required by resolution of the Customer's Council
 - 5.1.2. Reasonable assistance for a media event to launch the community education program
 - 5.1.3. Preparing, publishing and printing a brochure for distribution
 - 5.1.4. A reasonable amount of training for a Customer staffed speaker's bureau
 - 5.1.5. Providing a toll-free customer service hotline which shall be staffed sufficiently during all regular business hours.

6. EXPERT WITNESS TESTIMONY AND COURT TRAINING

- 6.1. Expert Witness Testimony. Sensys shall provide expert witness testimony at its sole expense, as reasonably necessary, to testify regarding the accuracy and technical operation of the System as necessary for court challenges to the operation of the System.
- 6.2. Court Training. Sensys shall conduct a one-day workshop-orientation session for Municipal Court judges (and/or their designees), hearing officers, other appropriate court officials and the Customer prosecutor. Sensys will provide and maintain a web based training service that includes basic operation as well as any system or procedure changes to ensure continuity for court staff end users.

7. REPORTING

7.1. Bi-Monthly Report. Sensys shall submit to the Customer a Bi-Monthly Report on project results within fifteen (15) days after the end of two week period and Sensys shall provide web access to such reports.

7.2. Monthly Report. Sensys shall submit to the Customer's Public Works/Traffic Engineering department a monthly Report on statistical information regarding traffic volumes, average speed, traffic congestion within thirty (30) days after the end of calendar month and Sensys shall provide web access to such reports.

8. Annual Report. RCW 46.63.170 (c) Sensys shall submit an annual report of the number of notices of infraction issues for each camera system and any other relevant information about the automated traffic safety cameras the City of Tacoma Police Department deems appropriate for the City of Tacoma Police Department web page. http://cms.cityoftacoma.org/Police/Photo_Enforcement_Data.pdf

- 8.1. Additional Reports or Information. Any other reports and information are not part of the Agreement and the preparation and delivery of any other such reports or information may result in additional fees.
- 8.2. Database. Sensys shall maintain a database with the following information per violation:
 - 8.2.1. Location, date and time
 - 8.2.2. Number of seconds of yellow traffic signal and speed of vehicle
 - 8.2.3. Vehicle description including license plate state and number
 - 8.2.4. Applicable vehicle code section violated (if available to Sensys)
 - 8.2.5. Citation prepared or reason for not preparing citation (if available to Sensys)
 - 8.2.6. Registered vehicle owner's name and address, and related information required to prepare citations where violation is made by a driver other than registered owner (if available to Sensys) (Affidavit of Non-Liability)
 - 8.2.7. Status of citation (outstanding, cancelled, reissued, paid, bail forfeited, traffic school, warrants issued, etc.) (if available to Sensys)
- 8.3. Sensys shall maintain at its sole expense all records, including, but not limited to all video recordings, which it generates or receives as a result of the performance of services pursuant to the Agreement for the period of time required by, and otherwise in accordance with, the Revised Code of Washington, Chapter 42.56, Public Records Act and Revised Code of Washington 46.63.170. as same may be amended from time to time. Upon receipt of a request from the Customer for a copy of any record being maintained by Sensys, Sensys shall provide the requested record to the Customer within a reasonable time following such request, but in no event later than seven (7) days following the date the request is received by Sensys.
- 8.4. Additional Services (if requested by the Customer in writing):
 - 8.4.1. Payment Processing Services. Sensys shall use reasonable commercial efforts which are mutually agreeable to the City of Tacoma treasury department and the court system to receive citation fees from violators, deposit amounts collected into an appropriate bank account, provide accounting records to the Customer, and remit the amounts received as instructed by the Customer. In addition, if approved by the City of Tacoma treasury and the courts Sensys will provide an online payment portal for violators.

8.4.2. Intersection Assessment Program. Sensys will generate a video-based analysis of an intersection or school zones designed to evaluate the frequency of red-light violations or school zone speed violations for each approach at the targeted intersection. The video media will contain up to 16 hours of video monitoring assuming the equipment remains installed at the intersection or school zone during the course of monitoring, but not to exceed three consecutive calendar days. A report summarizing the results, along with the media generated will be provided to the Customer. There is no charge for the initial 16 approaches or any future system placement requests to be evaluated by Sensys pursuant to this Agreement.

EXHIBIT B
LICENSE AGREEMENT FOR SENSYS SAFETY SYSTEM SOFTWARE

This LICENSE AGREEMENT (the “License”) is part of an agreement (the “Agreement”) (to which a copy of this License is attached as Exhibit B) between the Customer named in the Agreement and Sensys America, Inc. (“Sensys”) for the Sensys software product identified above, which includes computer software and may include associated media, printed materials, and “online” or electronic documentation (the “SOFTWARE PRODUCT”). The SOFTWARE PRODUCT also includes any updates and supplements to the original SOFTWARE PRODUCT provided to the Customer by Sensys. Any software provided along with the SOFTWARE PRODUCT that is associated with a separate license agreement is licensed to the Customer under the terms of that license agreement. By execution of the Agreement, the Customer has agreed to be bound by the terms of this License. Such agreement by the Customer is an express condition to its ability to use the SOFTWARE PRODUCT.

1. GRANT OF LICENSE. The SOFTWARE PRODUCT is licensed, not sold. This License grants the Customer only the following rights: The Customer may use those copies of the SOFTWARE PRODUCT as installed by Sensys on its network (“Network”). A license for the SOFTWARE PRODUCT may not be shared or used concurrently on different Networks.
2. DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS. The Customer may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCT, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. The SOFTWARE PRODUCT is licensed as a single product. Its component parts may not be separated for use on more than one computer unless so installed by Sensys. The Customer may not rent, lease, transfer or lend the SOFTWARE PRODUCT. This License does not grant the Customer any rights in connection with any trademarks or service marks of Sensys. Without prejudice to any other rights, Sensys may terminate this License if the Customer fails to comply with the terms and conditions of this License. In such event, the Customer must permit Sensys reasonable access to its computer system for the purpose of removing all copies of the SOFTWARE PRODUCT or deliver to Sensys or destroy all copies of the SOFTWARE PRODUCT and all of its component parts.
3. SUPPORT SERVICES AND UPGRADES. Sensys may provide the Customer with support services related to the SOFTWARE PRODUCT (“Support Services”). Use of Support Services is governed by the Agreement. Any supplemental software code provided to the Customer as part of the Support Services shall be considered part of the SOFTWARE PRODUCT and subject to the terms and conditions of this License. With respect to technical information the Customer provides to Sensys as part of the Support Services, Sensys may use

such information for its business purposes, including for product support and development. In particular, Sensys will not utilize such technical information in a form that personally identifies the Customer or any motor vehicle, tag or person. If the SOFTWARE PRODUCT is labeled as an upgrade, the Customer must be properly licensed to use a product identified by Sensys as being eligible for the upgrade in order to use the SOFTWARE PRODUCT. A SOFTWARE PRODUCT labeled as an upgrade replaces and/or supplements the product that formed the basis for the Customer's eligibility for the upgrade. The Customer may use the resulting upgraded product only in accordance with the terms of this License. If the SOFTWARE PRODUCT is an upgrade of a component of a package of software programs that the Customer licensed as a single product, the SOFTWARE PRODUCT may be used and transferred only as part of that single product package and may not be separated for use on more than one computer.

4. COPYRIGHT. All title and intellectual property rights in and to the SOFTWARE PRODUCT (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the SOFTWARE PRODUCT), the accompanying printed materials, and any copies of the SOFTWARE PRODUCT are owned by Sensys or its suppliers. As between the Customer and Sensys, all title and intellectual property rights in and to the images and information which may be generated through use of the SOFTWARE PRODUCT is the Customer's property. All rights not expressly granted are reserved by Sensys.
5. DUAL-MEDIA SOFTWARE. The Customer may receive the SOFTWARE PRODUCT in more than one medium. Regardless of the type or size of medium the Customer receives, the Customer may use only one medium that is appropriate for its Network. The Customer may not use or install the other medium on another Network. The Customer may not loan, rent, lease, lend or otherwise transfer the other medium to another user.
6. BACKUP COPY. After installation of one copy of the SOFTWARE PRODUCT pursuant to this License, the Customer may keep the original media on which the SOFTWARE PRODUCT was provided by Sensys solely for backup or archival purposes. If the original media is required to use the SOFTWARE PRODUCT on the COMPUTER, the Customer may make one copy of the SOFTWARE PRODUCT solely for backup or archival purposes. Except as expressly provided in this License, the Customer may not otherwise make copies of the SOFTWARE PRODUCT or the printed materials accompanying the SOFTWARE PRODUCT.
7. COMPLIANCE WITH LAW AND EXPORT RESTRICTIONS. The Customer represents and agrees that it does not intend to and will not use, disseminate or transfer in any way the SOFTWARE PRODUCT in violation of any applicable law, rule or regulation of the United States, or any State of the United States or any foreign country of applicable jurisdiction. Without limiting the foregoing, the Customer agrees that it will not export or re-export the

SOFTWARE PRODUCT to any country, person, entity or end user subject to U.S. export restrictions. The Customer specifically agrees not to export or re-export the SOFTWARE PRODUCT: (i) to any country to which the U.S. has embargoed or restricted the export of goods or services, which currently include, but are not necessarily limited to Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria, or to any national of any such country, wherever located, who intends to transmit or transport the products back to such country; (ii) to any end-user who the Customer knows or has reason to know will utilize the SOFTWARE PRODUCT or portion thereof in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any end-user who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government.

8. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.

EXHIBIT C
LEASE AGREEMENT FOR SENSYS SAFETY SYSTEMS

This LEASE AGREEMENT (the “Lease”) is part of an agreement (the “Agreement”) (to which a copy of this Lease is attached as Exhibit C) between the Customer named in the Agreement and Sensys America, Inc. The Parties hereto agree as follows:

1. LEASE. Sensys hereby leases to the Customer and the Customer hereby leases from Sensys, subject to the terms and conditions of this Lease, such items of System equipment (together with all attachments, replacements, parts, additions, substitutions, repairs, accessions and accessories incorporated therein and/or affixed thereto, the “Equipment”) that the Customer obtains possession, custody or control of pursuant to the Agreement.
2. USE AND LOCATION. The Equipment shall be used and operated by the Customer only in connection with the operation of the System by qualified employees of and in accordance with all applicable operating instructions, and applicable governmental laws, rules and regulations. The Customer shall not part with control or possession of the Equipment without Sensys’ prior written consent.
3. CONDITION. Sensys shall maintain the Equipment in good condition and working order in accordance with Section 5.A of Exhibit A. The Customer shall not damage the Equipment or make any alterations, additions or improvements to the Equipment without Sensys’ prior written consent unless such alterations, additions or improvements do not impair the commercial value or the originally intended function or use of the Equipment and are readily removable without causing material damage to such Equipment so as to return the Equipment to its original state, less ordinary wear and tear. Any alteration, addition or improvement not removed prior to the return of the Equipment shall without further action become the property of Sensys, provided, however, that any alterations, additions and improvements which would reduce the value of the Equipment must be removed prior to the return of such Equipment.
4. RETURN. Upon the expiration or earlier termination of the Agreement, the Customer shall allow Sensys reasonable access to remove the Equipment at Sensys’ expense.
5. OWNERSHIP, LIENS. The Equipment is and shall at all times be the property of Sensys. The Customer agrees to take all action necessary or reasonably requested by Sensys to ensure that the Equipment shall be and remain personal property. Nothing in this Lease, the Agreement or any Exhibit shall be construed as conveying to the Customer any interest in the Equipment other than its interest as a lessee hereunder. If at any time during the term hereof, Sensys wishes to place on the Equipment labels, plates or other markings evidencing ownership, security or other interest therein, the Customer shall allow Sensys reasonable access therefore and keep the same displayed on the Equipment.

6. NO CUSTOMER SUBLEASE; ASSIGNMENT. The Customer shall not assign or in any way dispose or otherwise relinquish possession or control of all or part of its rights or obligations under this lease or enter into any sub-lease of all or any part of the equipment without the prior written consent of Sensys.
7. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.

EXHIBIT D
COMPENSATION AND PRICING

MONTHLY FEE

Pricing for Sensys Safety Systems relating to fixed red light photo enforcement shall be as follows:

- \$3,999.00 per system per month.

Pricing for Sensys Safety Systems relating to fixed speed photo enforcement shall be as follows:

- \$3,999.00 per system per month, with less than 400 citations issued per month.
- \$4,900.00 per system per month, with between 400 and 800 citations issued per month.
- \$5,700.00 per system per month, with more than 800 citations issued per month.

Sensys acknowledges school zone fixed speed photo enforcement systems will only function during specified times throughout the school day and in accordance with City of Tacoma flashing beacon system. Additionally, Sensys will deduct from the total monthly fee to compensate when schools are not in session for more than seven (7) consecutive calendar days. These school breaks do not constitute a temporary suspension. To simplify the administrative work for all parties, Sensys shall bill the monthly fees for all months of the year, but compensate the Customer with a twenty five percent (25 %) discount on the monthly fees for School Zone Systems.

Temporary Suspensions. In the event of construction by the City of Tacoma, that cause a disruption of service this agreement, upon Sensys' written request, can be extended. For every sixteen (16) months, (per individual system) of interrupted service the entire Sensys network agreement can be extended for a one-month period.

OPTIONAL PRICING

Pricing for Sensys Safety Systems relating to portable photo enforcement shall be as follows:

- \$4,799.00 per system per month, with less than 400 citations issued per month.
- \$5,700.00 per system per month, with between 400 and 800 citations issued per month.
- \$6,600.00 per system per month, with more than 800 citations issued per month.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS

1. Except where a balance remains unpaid due to a deficit in the gross cash received as described herein, Customer agrees to pay Sensys within thirty (30) days after the invoice or Monthly report is received. A monthly late fee of 1.5% is payable for amounts remaining unpaid sixty (60) days from date of invoice or monthly report if such delay is the responsibility of the Customer.

2. Required Payment Convenience Fees will not be considered to be revenue received and are the responsibility of the violator.
3. Required Refund Fees will not be considered to be revenue received and are the responsibility of the violator.
4. Violations sent to a Collection agency will have an additional charge as negotiated with the chosen collection agency in mutually agreement with the City of Tacoma and the court system.