

## Customer Agreement

This Customer Agreement (“Agreement”) is made on June \_\_\_, 2020 (the “Effective Date”), between Sensys Gatso USA, Inc., a Delaware corporation with a principal business address at 900 Cummings Center, Suite 222-T, Beverly, MA 01915 (“Sensys Gatso”) and the City of Parma, with a principal business address at 6611 Ridge Road, Parma, Ohio 44129 (the “City”).

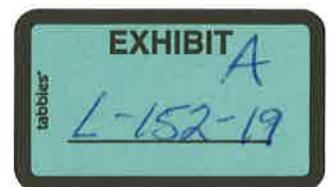
WHEREAS, the City wishes to retain the technology and business services of Sensys Gatso to provide an automated speed enforcement program as further defined in Section 3.2 of this Agreement (the “Services”), as part of the City’s automated traffic law enforcement program; and

WHEREAS, Sensys Gatso agrees to provide the Services, including access to the hardware and software to provide and implement an automated speed enforcement program (the “System”), pursuant to the terms of this Agreement;

NOW THEREFORE, the parties mutually agree as follows:

### 1. AGREEMENT TERM; TERMINATION

- 1.1. Initial Term; Extensions. The Agreement shall commence on the Effective Date and continue for a period of five (5) years (the “Initial Term”). Upon expiration of the Initial Term, the Agreement will automatically renew for two (2) subsequent two (2) year terms (each a “Renewal Term” and, collectively with the Initial Term, the “Term”), unless either party provides a written notice to terminate not later than thirty (30) days prior to expiration of the then-current Initial Term or Renewal Term. Renewal Terms are subject to renewal pricing which shall be mutually agreed upon by the parties no less than sixty (60) days prior to the expiration of the then-current Initial Term or Renewal Term.
- 1.2. Termination by Agreement. This Agreement may be terminated at any time by the mutual written agreement of Sensys Gatso and the City.
- 1.3. Termination for Cause. Either party may terminate this Agreement for cause if: (a) the other party has breached its obligations under this Agreement; (b) applicable law is amended, or the Ohio Department of Transportation adopts a rule or other requirement, to prohibit or substantially restrict the operation of automated traffic law enforcement systems, including the System being provided by Sensys Gatso; or (c) any court of competent jurisdiction rules that the System, or other similar systems, violates applicable law or cannot otherwise be used to enforce notices of violation or citations issued hereunder. The terminating party must provide thirty (30) days advance written notice to the other party of its intent to terminate, which notice must include the reasons for the termination. In the case of a breach of this Agreement, the notice must provide the other party with an opportunity to cure the breach within thirty (30) days after receipt of the notice. No termination fee shall be required with respect to termination for cause under this paragraph. Notwithstanding the foregoing, in the event of termination based upon (b) or (c) above, Sensys



Gatso or the City may suspend the System and all associated Services immediately upon the effective date of such amendment or ruling, as applicable.

- 1.4. Termination by the City for Convenience. The City may terminate this Agreement at its convenience by giving Sensys Gatso not less than ninety (90) days' prior written notice. If the City terminates this Agreement for convenience at any time within the three (3) year period following the date upon which the first Fixed Location unit, as defined in Section 3.2, goes live, then the City must pay Sensys Gatso a fee in the amount of \$1,500 per month per Fixed Location unit installed for each month that remains in such three (3) year period (the "Termination Fee"). The Termination Fee must be paid within thirty (30) days after the Effective Date of Termination. There is no Termination Fee if the City terminates at the end of the Initial Term or during any Renewal Term.
- 1.5. Cessation of Activities Except Pending Violations. On the termination date (if this Agreement is terminated for convenience pursuant to Section 1.4) or on the first day after any other date of termination or expiration of this Agreement ("Effective Date of Termination"), the image capture activities provided by Sensys Gatso under this Agreement shall cease immediately. Nevertheless, unless otherwise prohibited by law, all photo-enforcement violations in process or captured prior to the Effective Date of Termination, will continue until final disposition is reached on the violations and Sensys Gatso will continue to provide Services related to the process leading to such judgment, if any.
- 1.6. Removal of Hardware, Equipment; Restoration. Upon the termination of this agreement, Sensys Gatso shall promptly retrieve all Handheld Speed Enforcement units and Fixed Location units, each as defined in Section 3.2, which retrieval shall be completed no later than forty-five (45) days after the Effective Date of Termination. The City shall not charge any storage fees for the hardware and equipment described in this Section 1.6 during this forty-five (45) day period.

## 2. COMPENSATION

In consideration for the Services, the City shall pay Sensys Gatso as follows:

- 2.1. Per Citation Fees. A fee equal to the greater of: (a) \$36 per paid citation; or (b) 36% (thirty-six percent), of total citation fees collected by Sensys Gatso pursuant to Section 3.12 (not including any Credit Card Convenience Fees) and citation fees collected by or on behalf of the City in any manner.
- 2.2. Reserved.
- 2.3. Collection Fees. For any citation requiring additional collection efforts by Sensys Gatso pursuant to Section 3.12, a fee equal to 15% (fifteen percent) of total revenue received from each violator paying a citation 120 days or more following the date of violation (in addition to the fees set forth in Section 2.1).

- 2.4. Usage Fees. In the event the City elects to use one or more tripod-mounted portable T-Series enforcement units (each a “Portable Speed Enforcement unit”), for any month in which any Portable Speed Enforcement unit is not used by the City in accordance with Section 4.7(a), a fee of \$2500 for each such Portable Speed Enforcement unit (the “Usage Fee”).
- 2.5. Fee Payment.
  - 2.5.1. Invoicing. Sensys Gatso shall provide an itemized invoice to the City within ten (10) days of each infraction fees sweep from the Master Account to the City-designated account as described in Section 3.13. Each invoice shall indicate the total amount collected and the fees deducted by Sensys Gatso from such amounts pursuant to Sections 2.1 through 2.4.
  - 2.5.2. Fees are Sole Compensation. The fees required pursuant to this Section 2, and any applicable Termination Fee pursuant to Section 1.4, shall be Sensys Gatso’s sole compensation for the Service described herein. Except as explicitly set forth herein, all costs and expenses associated with the supply, installation, commissioning, operation, maintenance, repair, replacement, and removal of the System and all related hardware and equipment shall remain the responsibility of Sensys Gatso.

### 3. SCOPE OF WORK

- 3.1. Sensys Gatso Project Manager. Sensys Gatso will designate one Sensys Gatso employee as the City’s principal contact at Sensys Gatso (“Sensys Gatso Project Manager”).
- 3.2. The System. The System provided by Sensys Gatso to the City shall initially consist of fixed location speed enforcement systems, one or more Portable Speed Enforcement units, if requested by the City to Gatso in writing, and all technology required for violation package processing described herein.
- 3.3. Location of Fixed Location Units. Fixed Location units will be installed by Sensys Gatso on City owned or controlled poles at the locations identified by the City and agreed to in writing by Sensys Gatso. The City will provide Sensys Gatso with access to such poles and electricity for operation of the Fixed Location units on such poles at no charge to Sensys Gatso. Each Fixed Location unit installed on a City owned or controlled pole will remain installed in a single location for the Term. If no City owned or controlled pole is available at a location identified by the City and agreed in writing by Sensys Gatso, then Sensys Gatso shall be solely responsible for the installation, including, but not limited to, construction costs, of the Fixed Location Enforcement units, subject to the additional terms set forth in Exhibit A.
- 3.4. Signage. If required by state legislation or local governing ordinance, Sensys Gatso will provide and install signage at no cost to the City informing inbound traffic that the City utilizes photo-enforcement devices to enforce traffic laws.
- 3.5. 24-Hour Operation. Sensys Gatso shall operate the server components of the System on a continuous, 24-hour basis, seven (7) days per week, except for reasonable scheduled and

unscheduled downtime, including System maintenance and repairs as set forth in Section 3.6, and Force Majeure as set forth in Section 5.5.

- 3.6. System Maintenance; Repairs; Logs. Sensys Gatso shall maintain the System and shall promptly repair or replace any damaged or defective equipment at its own expense except if the damage was caused by the negligence of City personnel. Sensys Gatso will perform annual calibration of the Fixed Location units detecting speed violations on an annual basis and shall provide the City with reports showing the results of the calibration testing, confirming that the calibration is accurate. At least quarterly during the Term, the Parma Police Department (“PPD”) will verify calibration of the Fixed Location units detecting speed violations using a Sensys Gatso-supplied, GPS-enabled, speed sensor box. Sensys Gatso shall perform preventative maintenance and cleaning of System components on a regularly scheduled basis, including review, cleaning and testing of camera settings and operation, communications, and other System components. Sensys Gatso will use commercially reasonable efforts to notify the City and initiate repairs within seventy-two (72) hours after identification of any damage, defect, or material issue relating to calibration or accuracy of System equipment.
- 3.7. System Upgrades. In the event Sensys Gatso makes upgrades to the software or related performance capabilities of the System generally available to its customers, Sensys Gatso will provide such upgrades without charge to the City.
- 3.8. City Personnel Training. Sensys Gatso will provide System training, including training documentation, to City personnel designated by the City.
- 3.9. Images and Data; Violation Package. Sensys Gatso will upload encrypted violation images and embedded violation data to a Sensys Gatso server in a timely manner. Sensys Gatso shall correlate images and data with DMV records, and shall assemble the images and data into an electronic violation package (a “Violation Package”) in such a manner so as to allow the City to carry out those responsibilities set forth in Section 4.3 of this Agreement.
- 3.10. Processing of Violation Package. Sensys Gatso shall process Violation Packages through a system that utilizes commercially reasonable security protocols and that shall be accessible by PPD through the internet to review, and approve or reject, each violation before a notice of violation is issued related to that violation. Sensys Gatso shall notify the City of the list of supported web browsers for accessing this system. Sensys Gatso will use commercially reasonable efforts to process violation images and send a Violation Package to the PPD for review within ten (10) business days after the violation has occurred. Sensys Gatso shall provide reasonable aid and assistance in the prosecution of citations issued hereunder, including the provision of fact witnesses, as may be required in a court or quasi-judicial panel of competent jurisdiction, at no charge to the City.
- 3.11. Notices of Violation. After the City’s review and approval of a violation as set forth in Section 4.3, Sensys Gatso shall issue a notice of violation with images and data related to the notice of violation by mail within ten (10) days. The citation shall include images of the alleged traffic law infraction and shall be in a form mutually agreed upon by the parties. The System shall allow the registered owner or owners of a cited vehicle to review the images and data related to the notice of violation, through the web-portal by using a unique identifier code issued as part of the notice of violation. Additionally, Sensys Gatso will maintain a toll-free telephone number for registered

owners to discuss notices of violation and make payments, with hours of 8:00 a.m. to 5:00 p.m. (Eastern) Monday through Friday, not including state and federal holidays. With respect to any registered owner who has not paid the citation or taken action within thirty days of mailing of the notice of violation, Sensys Gatso shall send a 2<sup>nd</sup> notice, in a form mutually agreed upon by the parties (each a "Second Notice"). With respect to any registered owner who has not paid or taken action on the first or second notice within a further 14-days of issuance of the second notice, Sensys Gatso shall issue a third and final notice (each a "Third Notice"); provided, however, that Sensys Gatso shall have no obligation to send a Third Notice if the First Notice or Second Notice have been returned as undeliverable.

- 3.12. Additional Collection Efforts. If a violator has not paid a citation fee within 120 days of the date of violation, Sensys Gatso shall perform the additional Collections Services described in Exhibit B. In addition, upon prior written consent from the City, Sensys Gatso may also pursue one or more of the following additional collections efforts, as applicable:
- Filing with OH DMV documentation required for registration non-renewal; and
  - Filing with DMV's of other states with which the OH DMV has reciprocal agreements, documentation required for registration non-renewal.
- 3.13. Payment Methods; Collection of Infraction Fees. Sensys Gatso shall provide the registered owner or owners of a cited vehicle the following payment methods: "pay by web," "pay by telephone," and "pay by mail" for the payment of notices of violation issued through the System. Sensys Gatso may pass through to violators any reasonable credit card convenience fees imposed upon Sensys Gatso by its suppliers for violations paid by credit card ("Credit Card Convenience Fee"). Any registered owner that does not wish to pay the Credit Card Convenience Fee may remit payment to Sensys Gatso by mail in the form of a money order or check drawn upon a U.S. bank. The City shall have no obligation for the payment of any Credit Card Convenience Fee.
- 3.14. Deposit of Infraction Fees. Sensys Gatso will collect infraction fees from those who voluntarily pay in response to notices issued by Sensys Gatso and shall place such fees in a separate account with a banking institution approved by the City ("Master Account"). The Master Account shall be established in a manner which permits: (a) funds to be swept to a City-designated bank account by Sensys Gatso; and (b) for the City to have viewing rights to the Master Account. Sensys Gatso will sweep infraction fees collected from the Master Account to the City-designated bank account on or around the 1<sup>st</sup> and the 15<sup>th</sup> of each month, provided, however, that Sensys Gatso shall deduct from each fund sweep amounts owed for Services pursuant to Section 2.5.1.
- 3.15. Further Action by the City. If a registered owner disputes responsibility for a violation and a different violator is identified by the recipient of the notice of violation, then Sensys Gatso will reissue the citation to that different violator within ten (10) days after such identification.
- 3.16. Storage of Violation Packages. Sensys Gatso will store all captured violation data and images for three (3) years after payment or final adjudication of such violation. The City shall have reasonable access to the Violation Packages during the storage period.
- 3.17. NLETS Requirements. All authorized Sensys Gatso or subcontractor personnel reviewing the vehicle registration information obtained via the National Law Enforcement Telecommunications System ("NLETS") on behalf of the City shall comply with all applicable State of Ohio and NLETS requirements.

3.18. Reports. Sensys Gatso shall provide to the City functionality to run reports with regard to the functioning of the System, including but not limited to the number of captured violations, the number of violations sent for PPD approval, the number of notices of violation issued, the number of notices of violation paid, the aggregate amount paid regarding said notices of violation, the number of contested notices of violation, the amount of scheduled and unscheduled downtime of the System, and such other data as may be reasonably requested by the City.

3.19. Public Awareness. Sensys Gatso shall assist and support the City's efforts in public education and awareness programs, by providing information including, but not limited to, violation statistics and violation statistic improvements. Sensys Gatso shall provide the City with a pamphlet that the City may reproduce and distribute to the City residents; such pamphlet shall include a description of the operation of the System in non-technical terms.

3.20. Insurance. Sensys Gatso shall, during the Term of this Agreement, maintain insurance coverage in at least the minimum amounts set forth in this Section 3.20.

3.20.1. Workers' Compensation and Employer's Liability with limits not less than:

Workers' Compensation:	statutory
Employer's Liability:	\$500,000 ea. accident-injury
	\$500,000 ea. employee-disease
	\$500,000 disease-policy

This insurance shall provide that coverage applies to the State of Ohio.

3.20.2. Comprehensive Motor Vehicle Liability with limits for vehicles owned, non-owned, or rented of not less than \$1,000,000 Bodily Injury and Property Damage Combined Single Limit.

3.20.3. Comprehensive General Liability with limits not less than \$1,000,000 Bodily Injury and Property Damage Combined Single Limit.

3.20.4. Umbrella Liability with limits not less than \$2,000,000 Bodily Injury and Property Damage Combined Single Limit. This policy shall apply in excess of the limits stated in 3.20.1 through 3.20.3 above.

3.20.5. Sensys Gatso shall list the City as an additional insured under all of the policies described in this Section 3.20 and shall file with the City certificates of insurance reflecting the minimum insurance coverage and limits provided in this Section 3.20 prior to commencing work on the System.

#### 4. CITY RESPONSIBILITIES

4.1. City Project Manager. The City will designate one City employee as Sensys Gatso's principal contact at the City ("City Project Manager").

- 4.2. Cooperation. The City will cooperate with Sensys Gatso during all aspects of the planning, installation, implementation, and operation of the System and perform any other City obligations set forth in this Agreement.
- 4.3. Review of Violations. The City will provide sworn City police officers, community service officers or any other City employee designated by the City to carefully review each Violation Package to determine whether: (a) the violation is approved and notices of violation can be mailed or (b) the violation is rejected. If the violation is rejected, the City Project Manager will report to Sensys Gatso the basis for the rejection. The City is solely responsible for determining which violations identified by Sensys Gatso are issued as citations.
- 4.4. Access to Information Services. To the extent required by NLETS, the City will provide written authorization (in a form reasonably acceptable to the City) for Sensys Gatso and its subcontractors to perform Motor Vehicle Division (Ohio Department of Motor Vehicles) inquiries on behalf of the City.
- 4.5. Reserved.
- 4.6. Operation of Portable Speed Enforcement Units. In order to promote community safety, if the City requests that Sensys Gatso provide one or more Portable Speed Enforcement units to the City, the City agrees to: (a) utilize each Portable Speed Enforcement unit for at least 15 hours per week; (b) follow reasonable industry practices in the usage of Portable Speed Enforcement units; and (c) download all violations detected by the Portable Speed Enforcement units in a timely manner which shall in no event exceed forty-eight (48) hours following detection. If, during any four (4) consecutive weeks during the Term, the City fails to utilize one (1) or more Portable Speed Enforcement units for at least 15 hours per week, in addition to any other remedies it may have hereunder, Sensys Gatso may, at its sole discretion, remove any such Portable Speed Enforcement unit that has been underutilized from the Service. In addition, the City shall: (a) keep the Portable Speed Enforcement units free of all security interests of any kind whatsoever, including liens, encumbrances and other claims; (b) take reasonable measures to protect the Portable Speed Enforcement units from theft, unauthorized use or vandalism; (c) not remove or have removed any identification marks applied to the Portable Speed Enforcement units by Sensys Gatso; (d) maintain the Portable Speed Enforcement units in good condition and repair, reasonable wear and tear excepted; (e) use the Portable Speed Enforcement units with due care to prevent injury thereto and to any person or property and in conformity with all applicable laws; and (f) not to modify the Portable Speed Enforcement units in any way. The City shall be responsible for any damage to a Portable Speed Enforcement unit incurred during the Term, other than reasonable wear and tear.

## 5. GENERAL PROVISIONS

### 5.1. Indemnification Obligations.

Sensys Gatso shall indemnify, defend, and hold harmless the City and its elected officials, officers, employees, agents, attorneys, representatives, and permitted assignees and all persons acting by, through, under or in concert with them (the “City Indemnitees”) from and against any and all third party claims arising out of or related to:

- a. any material breach of the representations and warranties of Sensys Gatso set forth in Section 5.4.1;
- b. negligence or misconduct of Sensys Gatso or its employees, contractors, or agents that results in bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the negligence or misconduct of any City Indemnitee; or
- c. a claim that the System infringes the copyright or U.S. patent of a third party. In the event such a claim is made or appears likely to be made, Sensys Gatso will either: (a) enable the City to continue to use the System; (b) modify the System to render it non-infringing; or (c) replace the System with a replacement System at least functionally equivalent. If Sensys Gatso determines that none of these alternatives is reasonably available, Sensys Gatso shall have the right to terminate this Agreement effective immediately.

5.2. In the event of any third party claim, action, or demand for which the City seeks indemnification from Sensys Gatso pursuant to Section 5.1 (each a “Claim”), the City must give Sensys Gatso written notice of such Claim promptly after the City first becomes aware of it. Sensys Gatso will have the right to choose counsel to defend against the Claim (subject to approval of such counsel by the City, which approval may not be unreasonably withheld, conditioned, or delayed) and to control and settle the Claim. The City will have the right to participate in the defense of the Claim at its sole expense.

5.3. LIMITATION OF LIABILITY. EXCEPT FOR AMOUNTS PAYABLE WITH RESPECT TO SENSYS GATSO’S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 5.1: (A) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES IN CONNECTION WITH THE AGREEMENT, THE SERVICES, OR THE SYSTEMS, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY; AND (B) THE AGGREGATE LIABILITY OF EITHER PARTY FOR DIRECT DAMAGES ARISING OUT OF THE AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE LIMITED TO THE FEES PAID OR PAYABLE BY THE PARTIES HEREUNDER PURSUANT TO SECTION 2.1 DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM.

5.4. Representations and Warranties.

5.4.1. Sensys Gatso represents and warrants that at all times during the Term:

- a. it has the legal power to enter into the Agreement;
- b. the System is provided and will continue to perform in accordance with this Agreement;
- c. the Services described herein will be performed in a workmanlike and professional manner with due care and skill;
- d. it will perform the Services described herein in compliance with all applicable federal, State of Ohio, and local laws including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification including without limitation the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq*;
- e. it is not barred by law from contracting with the City or with any other unit of state or local government as a result of (a) a delinquency in the payment of any tax administered by the Ohio Department of Revenue unless Sensys Gatso is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax or (b) any finding of recovery made against Sensys Gatso by the Ohio Auditor of State;
- f. the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the City prior to the execution of this Agreement and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that Sensys Gatso, in procuring this Agreement, has colluded with any other person, firm, or corporation, then Sensys Gatso will be liable to the City for all loss or damage that the City may suffer thereby, and this Agreement will be null and void, at the City's option; and
- g. neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specifically Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specifically Designated National and Blocked Person. Sensys Gatso further represents and warrants to the City that Sensys Gatso and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specifically Designated National and Blocked Person.

5.4.2. The City represents and warrants that at all times during the Term:

- a. it has the legal power to enter into the Agreement and that it has complied with any and all applicable federal, State of Ohio, and local procurement requirements in connection therewith; and
- b. it will utilize the System in compliance with all applicable federal, State of Ohio and local laws.

5.4.3. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 5.4:

- a. THE PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AS WELL AS ALL WARRANTIES ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE.
- b. SENSYS GATSO MAKES NO WARRANTY THAT THE SERVICES AND SYSTEM WILL MEET THE CITY'S REQUIREMENTS, OR THAT THE SERVICES AND/OR SYSTEMS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DOES SENSYS GATSO MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES AND/OR SYSTEM.

5.5. Force Majeure. Neither party shall be liable for delays in the performance of its obligations hereunder due to a Force Majeure Event. "Force Majeure Event" means conditions or other circumstances, such as acts of God, that: (i) were not foreseen, and could not have been reasonably foreseen, by the party obligated to perform, (ii) are beyond the control of the party obligated to perform, and (iii) materially hinder or interfere with the ability of the party obligated to perform to complete performance; provided, however, that no such condition or circumstance will be a Force Majeure Event if it is the result of the fault, negligence, or material breach of this Agreement by the party obligated to perform. Examples of Force Majeure events include wars, floods, strikes and labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, severe adverse weather conditions not reasonably anticipated, and delays in permitting.

5.6. Relationship between Sensys Gatso and the City. Sensys Gatso is an independent contractor. This Agreement does not create, and nothing in this Agreement may be deemed, construed, or applied to create, a partnership, joint venture or the relationship of principal and agent or employer and employee between the parties. Further, this Agreement does not permit either party to incur any debts or liabilities or obligations on behalf of the other party, except only as specifically provided herein.

5.7. Assignment. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Sensys Gatso may assign the Agreement to an affiliate or in

connection with a merger or sale of substantially all of the assets related to the Agreement. The Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

5.8. Escalation Procedure. The following procedure will be followed if resolution is required to a conflict arising during the performance of this Agreement:

5.8.1. When a conflict arises between the City and Sensys Gatso, the project team members will first strive to work out the problem internally.

5.8.2. If the project team cannot resolve the conflict within five (5) business days, the City Project Manager identified pursuant to Section 4.1 and the Sensys Gatso Project Manager identified pursuant to Section 3.1 will meet to resolve the issue.

5.8.3. If the conflict is not resolved within five (5) business days after being escalated to the Project Managers, a senior executive of Sensys Gatso will meet with the City Administrator within five (5) days to resolve the issue.

5.8.4. If the conflict remains unresolved as described in Section 5.8.3, the parties may mutually agree to terminate the Agreement pursuant to Section 1.2.

5.8.5. During any conflict resolution, Sensys Gatso agrees to provide those Services relating to items not in dispute, to the extent practicable pending resolution of the conflict. The City agrees to pay invoices per the Agreement.

5.9. Applicable Law; Jurisdiction and Venue. This Agreement is governed by and construed in all respects in accordance with the laws of the State of Ohio, without regard to any conflicts of laws rules. Any lawsuit arising out of or in connection with this Agreement must be filed in a state or federal court of competent jurisdiction in Ohio, and both parties specifically agree to be bound by the jurisdiction and venue of such courts.

5.10. Entire Agreement; Amendment. This Agreement and its exhibit constitutes the entire agreement between the parties about the Services and supersedes all prior and contemporaneous agreements or communications. This Agreement and its exhibit may only be amended by a writing specifically referencing this Agreement which has been signed by authorized representatives of the parties.

5.11. Counterparts. This Agreement may be signed in one or more counterparts, each of which will be deemed to be an original and all of which when taken together will constitute the same Agreement. Any copy of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original.

5.12. Enforceability. If any term in this Agreement is found by competent judicial authority to be unenforceable in any respect, the validity of the remainder of this Agreement will be unaffected,

provided that such unenforceability does not materially affect the parties' rights under this Agreement.

5.13. Waiver. An effective waiver under this Agreement must be in writing signed by the party waiving its right. A waiver by either party of any instance of the other party's noncompliance with any obligation or responsibility under this Agreement will not be deemed a waiver of subsequent instances.

5.14. Notices. Any notices provided pursuant to this Agreement shall be effective three days after deposit in the U.S. Mail if sent by Certified Mail Return Receipt Requested, or immediately if by confirmed facsimile, to the parties at the addresses first set forth above.

IN WITNESS WHEREOF, Sensys Gatso and the City have caused this Agreement to be executed by their properly authorized representatives as of the Effective Date.

*Agreed to:*  
**Sensys Gatso USA, Inc.**

*Agreed to:*  
**The City of Parma, Ohio**

By \_\_\_\_\_  
Authorized signature

By \_\_\_\_\_  
Authorized signature

Andrew Noble  
President

Timothy DeGeeter  
Mayor, City of Parma

Date:

Date:

*Attested to:*

*Attested to:*

By \_\_\_\_\_  
Authorized signature

By \_\_\_\_\_  
Authorized signature

Name (type or print):

Name (type or print):

Date:

Date:

## EXHIBIT A

### Additional Terms and Conditions for Installation of Camera Poles

In the event that Sensys Gatso is required to install one (1) or more camera poles pursuant to Section 3.3, the following additional terms and conditions shall apply:

- A. Obtaining Permits. Sensys Gatso shall prepare all permit applications, design drawings or other related documents as may be reasonably required by the City or any other governmental entities for the installation and operation of the camera poles. The City will provide to Sensys Gatso, at no cost, all City permits necessary for the operation of the System and provision of the Services provided Sensys Gatso meets the minimum requirements for such permits. Sensys Gatso will use commercially reasonable efforts to obtain any other necessary permits for the camera poles from applicable agencies and shall pay all permit or other fees charged by such governmental entities in connection with the installation and operation of the System. The City will reasonably assist Sensys Gatso in securing necessary permits from other governmental agencies, as required.
- B. Installation. Sensys Gatso will commence installation of the camera poles within ten (10) business days after any and all necessary State of Ohio, County, and City permit applications have been approved and such permits have been received. Sensys Gatso shall not be responsible for any delays associated with the failure of any state or local government to promptly provide applicable permits. In the event any permitting agency requires one (1) or more upgrades to any City owned or controlled equipment at any intersection where the System will be installed, such upgrades shall be the sole responsibility of the City. Sensys Gatso may elect to add a separate circuit breaker to the traffic control system power source to obtain electric power for the System. Sensys Gatso will use commercially reasonable efforts to complete installation of the System in a timely manner.
- C. Removal of Hardware, Equipment; Restoration. Upon any expiration or termination of this Agreement, Sensys Gatso shall remove any poles and related equipment and restore such intersections to substantially the same condition as existed prior to this Agreement. Notwithstanding the foregoing, Sensys Gatso will not remove any pole foundation, which shall be left approximately flush with grade with no exposed bolts or other hazards. Installed underground conduit and other equipment shall not be required to be removed. Sensys Gatso shall use commercially reasonable efforts such that removal and restoration activities occur within forty-five (45) days after the Effective Date of Termination and do not unreasonably interfere with or adversely affect traffic flow.

## EXHIBIT B

### Additional Terms and Conditions for Collections Services

In consideration for the Collections Fees set forth in Section 2.3 of the Agreement, Sensys Gatso will perform the following Collections Services at no additional expense to the City subject to the terms of the Agreement.

#### 1. SCOPE OF SERVICES

With respect to any registered owner who has not paid a citation within 120 days of the violation date (each a “Debt”), Sensys Gatso will perform the following Collection Services subject to the terms of this Exhibit B: (a) notice generation, (b) target population analysis, (c) effectiveness reports, (d) skip-tracing; (e) no name and address research, and (f) outbound calling.

- 1.1. Ownership; Authorization to Investigate and Collect Debts. The City shall maintain all right, title and ownership of the Debts. The City authorizes and appoints Sensys Gatso and its subcontractors to collect and receive for the City all sums of money due or payable to the City for the Debts and perform the services described herein. The City expressly authorizes Sensys Gatso to perform investigatory and skip tracing services in connection with the Collection Services and to use any legal means to collect the Debts. Sensys Gatso and its subcontractors shall have authority to receive payment electronically or by cash, check or money order, and shall have authority to endorse checks, drafts, money orders and other negotiable instruments which may be received in payment of the Debts.
- 1.2. Prior Collection Efforts. In the event the City attempted to collect any Debt incurred prior to the Collection Services Start Date, the City agrees to provide to Sensys Gatso all reasonable and necessary information and records it has in its control regarding each such Debt and efforts undertaken by or on behalf of the City to collect the same.
- 1.3. Notice of Debt Dispute. If the City receives notice, either orally or in writing, or otherwise becomes aware that the recipient of a citation is disputing a Debt, the City shall promptly notify Sensys Gatso in writing. If the notice of dispute is made in writing, the City shall provide Sensys Gatso with a copy thereof.

#### 2. LEGAL PROCESS, ATTORNEYS, AND LITIGATION

The parties agree that filing legal process or initiating litigation is not required in connection with the Collection Services, unless the parties mutually agree to take such steps in writing. In such instances where the City authorizes litigation or legal process, the following additional terms shall apply:

- 2.1. Decision Making Authority. The parties agree that the City reserves the right to decide whether Debts shall be placed in litigation. In keeping with this authority, the City may authorize Sensys Gatso in writing to retain an attorney for the City on prescribed terms and to commence litigation in the name of the City.
- 2.2. Authority and Role of Attorney. An attorney selected by Sensys Gatso pursuant to the Agreement shall be considered the City’s attorney and the conduct of the attorney shall be under the City’s control. Any such attorney will not be deemed a subcontractor of Sensys Gatso. The City will provide written authorization for Sensys Gatso or its subcontractor to conduct correspondence with any such attorney and to receive Debt proceeds from the attorney on the City’s behalf. The City shall make all decisions regarding litigation, garnishment, or other legal

process, including but not limited to any issues pertaining to the statute of limitations. Sensys Gatso and its subcontractors shall not be responsible, or liable in any respect, for the performance of such attorney.

- 2.3. Attorneys' Fees and Costs. The attorney described in Section 2.2 of this Exhibit B shall charge a fee agreed by such attorney and the City. Either the City or Sensys Gatso may advance necessary legal costs as allowed by law, but the City agrees to reimburse the appropriate party for any disbursements thus made to the extent that money is not recovered in an amount sufficient to cover these disbursements. When the attorney collects a Debt, in whole or in part, the attorney may deduct the agreed fee and remit the balance to Sensys Gatso. The City authorizes Sensys Gatso to deduct the agreed fee and disbursements before remitting the balance to the City.