

RESOLUTION NO. 30129

A RESOLUTION AUTHORIZING THE ADMINISTRATOR FOR THE DEPARTMENT OF TRANSPORTATION TO ENTER INTO A NEW SERVICES AGREEMENT WITH NOVOAGLOBAL FOR TRAFFIC INFRACTION DETECTION AND ENFORCEMENT PROGRAM, IN SUBSTANTIALLY THE FORM ATTACHED.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it is hereby authorizing the Administrator for the Department of Transportation to enter into a new services agreement with NovoaGlobal for Traffic Infraction Detection and Enforcement Program, in substantially the form attached.

ADOPTED: November 12, 2019

/mem

**SERVICES AGREEMENT  
BETWEEN THE CITY OF CHATTANOOGA, TENNESSEE  
AND NOVOAGLOBAL INC. FOR  
TRAFFIC INFRACTION DETECTION & ENFORCEMENT PROGRAM**

This **SERVICES AGREEMENT** (the “**Agreement**”) is made by and between NovoaGlobal Inc., a Delaware corporation having a place of business at 8018 Sunport Drive, Suite 203, Orlando, Florida 32809 (“**NovoaGlobal**”), and the City of Chattanooga, a Tennessee municipal corporation, having an address at 101 East 11<sup>th</sup> Street, Chattanooga, TN 37402 (the “**Customer**” and together with NovoaGlobal, the “**Parties**” and each singularly a “**Party**”).

**WITNESSETH:**

**WHEREAS**, the State of Delaware Secretary of State issued a Certificate of Amendment of Certificate of Incorporation, signed October 18, 2019, certifying that the corporate name of Sensys America Inc. was changed to NovoaGlobal Inc.;

**WHEREAS**, pursuant to Tenn. Code Ann. § 55-8-198, the Customer may implement an unmanned traffic camera enforcement program;

**WHEREAS**, the Customer adopted Ordinance No. 11886, which enacted Chattanooga City Code § 24-273, as amended, providing for a traffic infraction camera enforcement program;

**WHEREAS**, NovoaGlobal has the knowledge, possession, and ownership of certain equipment, licenses and processes, referred to collectively as the NovoaGlobal 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 NovoaGlobal 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. **CUSTOMER TERMS AND CONDITIONS.** Sections 8, 11, 14, 15, 18, 20, 22, and 26 of the City of Chattanooga Purchase Order Standard Terms and Conditions (Revised 7/18/2018) have been transferred into the body of this Agreement and are incorporated herein by reference.

3. **SERVICES**

3.1. NovoaGlobal 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 NovoaGlobal 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*, NovoaGlobal shall also supply to the Customer:

3.1.1. citation preparation processes that assist the Customer in complying with current applicable law;

3.1.2. training of personnel designated by the Customer involved with the operation of the Systems and/or the enforcement and disposition of citations;

3.1.3. expert witness testimony regarding the operation and functionality of the System; and

3.1.4. other support services for the System as set forth in *Exhibit A*.

3.2. 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:

3.2.1. such Software, if manufactured or licensed by NovoaGlobal, is supplied under the license set forth in *Exhibit B* (the “License”) to which the Customer agrees;

3.2.2. 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

3.2.3. such Equipment is supplied under the lease terms set forth in *Exhibit C* (the “Lease”) to which the Customer hereby agrees.

3.3. The Customer understands and agrees that (i) NovoaGlobal 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 NovoaGlobal's 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 NovoaGlobal) and reasonable access by NovoaGlobal (or such third parties) to Customer premises and systems and the Customer agrees to provide all of the foregoing to NovoaGlobal.

- 3.4. The Customer understands and agrees that the Systems will be owned by NovoaGlobal (or its designees). The Customer shall use its best efforts to assist NovoaGlobal to identify any third-party who is responsible for damage to the Systems or any part thereof.
- 3.5. NovoaGlobal shall coordinate its work with the Customer's police, public works, engineering and finance departments and the city court and city clerk's office, and, as necessary or required, with the Tennessee Department of Transportation and any other department of the State of Tennessee, as requested.

#### 4. **TERM**

- 4.1. The effective date of this Agreement shall be the date this Agreement is signed by the City (the "**Effective Date**"). The initial term (the "**Initial Term**") of this Agreement, the License and the Lease shall begin upon the Effective Date, and shall continue until the first (1st) anniversary of the Effective Date.
- 4.2. The terms of this Agreement may be extended for two (2) additional one (1) year terms upon mutual written agreement between the Parties, at least thirty (30) days before expiration of the term of this Agreement then in effect. Each Renewal Term (each, a "**Renewal Term**"), would have the same terms and conditions specified herein. (Each Renewal Term, if any, together with the Initial Term, shall be referred to collectively as the "**Term**").

#### 5. **TERMINATION AND EXPIRATION**

- 5.1. This Agreement may be terminated by mutual written consent of the Parties.
- 5.2. 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.

- 5.3.** NovoaGlobal may terminate this Agreement, without liability, on thirty (30) days advance written notice if NovoaGlobal concludes in its reasonable discretion that (i) potential or actual liability of NovoaGlobal 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.
- 5.4.** 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, or impossible to continue; (ii) a change in state or federal law arising out of or in connection with the System makes the program impractical, uneconomical or impossible to continue; and/or (iii) the Systems cannot be installed.
- 5.5.** 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 NovoaGlobal 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:
- 5.5.1.** The Customer shall cease using the Software and Equipment in its possession, custody or control and shall (a) immediately allow NovoaGlobal a reasonable opportunity to remove such Equipment not to exceed sixty (60) days and (b) (i) immediately deliver to NovoaGlobal 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 NovoaGlobal a certification thereof or (ii) allow NovoaGlobal reasonable access to the System(s) on which such Software is loaded and permission to NovoaGlobal to remove such Software and documentation.
- 5.5.2.** Unless directed by the Customer not to do so, NovoaGlobal 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.

- 5.6. Notwithstanding anything to the contrary contained herein, or in the License or the Lease, but except as provided in Section 25 the License and the Lease shall terminate upon the termination or expiration of this Agreement.

## 6. FEES AND PAYMENT

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

- 6.1. **Monthly Fees** as described in *Exhibit D* (Compensation & Pricing) in arrears with respect to each approach at which a System has been installed. Such payment shall be due 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 4.2. 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.
- 6.2. In the event that the United States Postal Service increases applicable First Class Mail and/or Certified Mail postage, NovoaGlobal may invoice the Customer for the increased postage actually paid by NovoaGlobal in connection with this Agreement. For example, if First Class Mail postage were increased by \$0.02, and NovoaGlobal mailed 1,000 notices, NovoaGlobal would invoice the Customer \$20.00.
- 6.3. 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:

Ken Doyle – kdoyle@chattanooga.gov

## 7. RESPONSIBILITIES OF THE CUSTOMER

- 7.1. The Customer shall provide NovoaGlobal with any “as built” drawings in electronic format (AutoCad) that are available at no cost to the Customer and shall consider for approval NovoaGlobal’s engineering drawings without unusual or unreasonable cost or delay.
- 7.2. The Customer shall diligently prosecute citations in court at its own expense. NovoaGlobal 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.

- 7.3.** The Customer will cooperate with NovoaGlobal in obtaining electrical connections at the roadside and NovoaGlobal shall pay all costs associated with such connection and shall pay for all power required by the System.
- 7.4.** To allow for proper operation of the System, when known to the Customer, the Customer shall provide NovoaGlobal 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 NovoaGlobal 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, NovoaGlobal makes no guarantee that it will be able to make any such adaptation. In the event that NovoaGlobal 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, NovoaGlobal does not, and will not, make recommendations or otherwise manage the configuration or operation of the intersection traffic light system.
- 7.5.** 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 NovoaGlobal. Such permission shall not be unreasonably withheld by NovoaGlobal.

## **8. SUBCONTRACTORS**

- 8.1.** NovoaGlobal shall supervise and direct the Services described on Exhibit A, using NovoaGlobal's best skill and attention as approved by the Customer. NovoaGlobal shall be solely responsible for all methods, techniques, sequences and procedures, and shall coordinate all portions of the Services provided hereunder. Customer will deal only through NovoaGlobal, who shall be responsible for the proper execution of the Services.
- 8.2.** Any subcontractor relationships or assignment not identified herein or in Exhibit A as part of this Agreement, must first be approved by Customer.
- 8.3.** A subcontractor ("Subcontractor") is a person or organization that has a direct contract with NovoaGlobal to perform any of the Services. NovoaGlobal agrees that it is as fully responsible to Customer for the acts and omissions of

Subcontractors and of persons either directly or indirectly employed by NovoaGlobal as it is for the acts and omissions of persons directly employed by it. Nothing contained in this Agreement or any other document associated with the performance of the Services shall create any contractual relation between any Subcontractor and Customer.

- 8.4. NovoaGlobal shall assign only competent personnel to perform any portion of the Services. If at any time Customer, in its sole discretion, desires the removal of any person or persons assigned by NovoaGlobal to perform the Services, NovoaGlobal shall remove such person or persons immediately upon receiving written notice from Customer. If any person is identified in this Agreement (or any attachment hereto), NovoaGlobal shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Customer.
- 8.5. NovoaGlobal shall be responsible to Customer for the acts and omissions of NovoaGlobal's employees, subcontractors, and their agents and employees, and any other persons performing any of the Services under a contract with NovoaGlobal.
- 8.6. NovoaGlobal agrees to bind every Subcontractor and every Subcontractor agrees to be bound by the terms of this Agreement as to that portion of the Services performed by Subcontractor, unless specifically noted to the contrary in a subcontract approved in writing by Customer. Subcontractor agrees to be bound to NovoaGlobal by the terms of this Agreement and to assume toward NovoaGlobal all of the obligations and responsibilities that NovoaGlobal assumes toward Customer. NovoaGlobal agrees to be bound to the Subcontractor by all of the obligations that Customer assumes to NovoaGlobal under this Agreement as to the portion of the Services performed by Subcontractor.

## 9. LIMITED WARRANTY AND LIMITATION ON DAMAGES

- 9.1. NovoaGlobal warrants that the System's functionality will conform in all material respects to the description of the System set forth on *Exhibit A*.
- 9.2. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, NOVOAGLOBAL 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-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 CUSTOMER BY OR ON BEHALF OF NOVOAGLOBAL OR OTHERWISE FORM THE BASIS FOR THE BARGAIN BETWEEN THE PARTIES.

**9.3.** The Customer acknowledges and agrees that:

**9.3.1.** The Systems may not detect every violation;

**9.3.2.** 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;

**9.3.3.** 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 NovoaGlobal;

**9.3.4.** 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

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

## **10. INDEMNIFICATION AND INSURANCE**

**10.1.** NovoaGlobal 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 NovoaGlobal's violation of any such laws, ordinances and regulations or any claims arising from NovoaGlobal's performance of this Agreement, including as a result of the negligence or willful misconduct of NovoaGlobal, its officers and directors, agents, attorneys, and employees, but excluding any employees or agents of Customer.

**10.2.** NovoaGlobal 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) NovoaGlobal's negligence, provided

that such claim of damages is not attributable to (i) any act or omission set forth in Section 9.3 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 NovoaGlobal is obligated to indemnify, the use of the System by the Customer is prevented, in whole or in part, by an injunction, NovoaGlobal's sole obligation to the Customer as a result of such injunction shall be, at NovoaGlobal's option, either to (i) replace such part as has been enjoined, or (ii) procure a license for NovoaGlobal or the Customer to use same, or (iii) remove same and terminate this Agreement at no additional cost to the Customer.

- 10.3.** Notwithstanding anything in this Agreement to the contrary, NovoaGlobal 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 that was not authorized by NovoaGlobal, (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 NovoaGlobal), (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.
- 10.4.** The rights of the Customer to seek indemnification under this Section 8 shall be conditioned upon (i) the Customer notifying NovoaGlobal promptly upon receipt of the claim or action for which indemnification is sought and (ii) the Customer's full cooperation with NovoaGlobal in the settlement or defense of such claim or action at no cost to the Customer. The Customer agrees not to charge NovoaGlobal 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, NovoaGlobal for the purpose of the replacement of such part or parts of Systems as NovoaGlobal may deem necessary or desirable. The Customer may participate in the defense of any indemnified matter through counsel of its own choice.
- 10.5.** NovoaGlobal shall maintain the following minimum scope and limits of insurance:

NovoaGlobal shall purchase and maintain during the life of this Agreement, insurance coverage which will satisfactorily insure NovoaGlobal against claims and liabilities which arise because of the execution of this Agreement, with the minimum insurance coverage as follows:

- a. **Commercial General Liability Insurance**, with a limit of \$1,000,000 for each occurrence and \$2,000,000 in the general aggregate.
- b. **Automobile Liability Insurance**, with a limit of \$1,000,000 for each accident, combined single limit for bodily injury and property damage.
- c. **Worker's Compensation Insurance and Employer's Liability Insurance**, in accordance with statutory requirements, with a limit of \$500,000 for each accident.
- d. **Professional Liability Insurance**, with a limit of \$1,000,000 for each claim and aggregate.

NovoaGlobal shall not commence work on the goods/non-professional services until a Certificate of Insurance has been submitted to the City showing proof that NovoaGlobal has obtained the necessary insurance coverage.

If any of the above cited policies expire during the life of this Agreement, it is NovoaGlobal's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates must specifically cite the following provisions:

- i. City of Chattanooga, its agents, representatives, officers, directors, officials and employees must be named an Additional Insured under the following policies:
  - a) Commercial General Liability
  - b) Auto Liability
- ii. NovoaGlobal's insurance must be primary insurance as respects performance of subject contract.
- iii. All policies, except Professional Liability Insurance, if applicable, waives rights of recovery (subrogation) against City of Chattanooga, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by NovoaGlobal under this Agreement.

**11. 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 NovoaGlobal 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.

**12. CONFIDENTIAL AND PROPRIETARY INFORMATION; PUBLIC RECORDS LAW COMPLIANCE.**

**12.1.** The Parties agree that they shall comply with the public records disclosure provisions of Tenn. Code Ann. § 10-7-503, or any successor provision. In the event of a public records request, NovoaGlobal agrees to fully cooperate in the provision of any records which are in its possession, provided that NovoaGlobal reserves the right, through the Customer, to charge the party making the public records requests for the cost of copying the records to the same extent that the Customer could if it were in possession of the requested records.

**12.2.** NovoaGlobal agrees that:

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

**12.2.2.** 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.

**12.3.** No information given by NovoaGlobal 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 Tenn. Code Ann. § 10-7-503, or any successor provision.

**12.4.** As used in this Agreement, the term "Proprietary Information" shall mean all trade secrets or confidential or proprietary information designated as such by NovoaGlobal, 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 NovoaGlobal 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.

**12.5.** 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 NovoaGlobal. "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 NovoaGlobal.

**12.6.** 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 NovoaGlobal.

### **13. AUDIT PROVISION.**

**13.1.** All records relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of NovoaGlobal, or any of NovoaGlobal's independent contractors, associates, and/or subcontractors, shall be made available for inspection and copying upon written request to the Customer. Additionally, said records shall be made available upon request by the Customer to any state, federal or other regulatory authorities and any such authority may review, inspect and copy such records. Said records include, but are not limited to, all plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the Project, its design, and its construction. NovoaGlobal shall maintain and protect these records for no less than **seven (7) years** after the completion of the Project, or for any longer period of time as may be required by applicable law, good professional practice, and upon notice during the pendency of any claims or litigation arising from the Project.

**13.2.** Customer, or its assigns, may audit all financial and related records (including digital) associated with the terms of the contract or agreement. Customer may further audit any of NovoaGlobal's records to conduct performance audits (to identify waste and abuse or to determine efficiency and effectiveness of the contract or agreement), or to identify conflicts of interest.

**13.3.** NovoaGlobal shall at all times during the term of the contract or agreement, and for a period of seven (7) years after the end of the contract, keep and maintain records of the work performed pursuant to this contract or agreement. This shall include proper records of quotations, contracts, correspondence, invoices, vouchers, and other documents that support actions taken by NovoaGlobal. Documents shall be maintained by NovoaGlobal, which

are necessary to clearly reflect all work and actions taken. All such records shall be maintained in accordance with general accepted accounting principles. NovoaGlobal shall, at its own expense, make such records available for inspection and audit (including copies and extracts of records as required) by the Customer at all reasonable times and without prior notice.

- 13.4.** The obligations of this Section shall be explicitly included in any subcontracts or agreements formed between NovoaGlobal and any subcontractors or suppliers of goods or non-professional services to the extent that those subcontracts or agreements relate to fulfillment of NovoaGlobal's obligations to the Customer.
- 13.5.** Costs of any audits conducted under the authority of this section and not addressed elsewhere will be borne by the Customer, unless the audit identifies significant findings that would benefit the Customer. NovoaGlobal will reimburse the Customer for the total costs of an audit that identifies significant findings that would benefit the Customer.
- 13.6.** This Section shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the Customer may have by Federal, State, or Municipal law, whether those rights, powers, or obligations are express or implied.

**14. INDEPENDENT CONTRACTOR; NO AGENCY.**

- 14.1.** It is understood that NovoaGlobal 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. NovoaGlobal assumes responsibility for payment of all federal, state and local taxes imposed or required of NovoaGlobal under unemployment insurance, Social Security and income tax laws. NovoaGlobal 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:
  - 14.1.1.** Pay dues, licenses or membership fees for NovoaGlobal; Control the method, manner or means of performing Services under this Agreement, except as otherwise specified herein; or
  - 14.1.2.** Restrict or prevent NovoaGlobal from working for any other party.
  - 14.1.3.** Be responsible for the payment of any tax, license, fee or payment owed by NovoaGlobal.
- 14.2.** 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.

**14.3.** NovoaGlobal is an independent contractor providing services to the Customer and the employees, agents and servants of NovoaGlobal 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 NovoaGlobal and the Customer.

**15. NOTICES.**

**15.1.** Any notices or demands which under the terms of this Agreement or under any statute must or may be given or made by NovoaGlobal or the Customer shall be in writing and shall be given or made by personal service, email, first class mail, FedEx, or by certified mail return receipt requested to the Parties at the address specified in the preamble to this Agreement and as set forth below.

**15.2.** 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 President of NovoaGlobal at the address in the preamble or the Chief of Police of the Customer at the address set forth below, or to such other addresses as the Parties may from time to time give written notice of as herein provided.

Notices to Customer: Chattanooga Department of Transportation  
Attn: Kevin Comstock  
Development Resource Center  
1250 Market Street, Suite 3030  
Chattanooga, TN 37402

and

Chattanooga Police Department  
Attn: Chief of Police  
3410 Amnicola Highway  
Chattanooga, TN 37406

**16. NONDISCRIMINATION.** NovoaGlobal agrees to comply with all federal, state, and local non-discrimination laws and regulations. NovoaGlobal agrees not to

discriminate against any participant in this Agreement on the basis of race, color, religion, sex, age or national origin. NovoaGlobal further agrees to comply with all federal, state and local laws regarding treatment and accommodations for individuals with disabilities.

- 17. ASSIGNMENT.** Neither Customer nor NovoaGlobal shall assign any rights or duties under this Agreement without the prior written consent of the other Party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent NovoaGlobal from employing independent contractors, associates, and subcontractors to assist in the performance of the Services; however, other agreements to the contrary notwithstanding, in the event NovoaGlobal employs independent Contractors, associates, and subcontractors to assist in performance of the Services, NovoaGlobal shall be solely responsible for the negligent performance of the independent contractors, associates, and subcontractors so employed.
- 18. 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 by both Parties.
- 19. WAIVER.** A waiver by either Customer or NovoaGlobal of any breach of this Agreement shall be in writing. Customer's failure to insist on performance of any of the terms or conditions of this Agreement or to exercise any right or privilege, or Customer's waiver of any breach does not waive any other terms, conditions, or privileges, whether of the same or similar type.
- 20. FORCE MAJEURE.** Neither Customer nor NovoaGlobal shall be considered in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonconforming party. For purposes of this Agreement, such circumstances include abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, or other civil disturbances; sabotage; judicial restraint; discovery of unanticipated hazardous wastes; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either Customer or NovoaGlobal under this Agreement, and acts or omissions of (i) non-subcontractor third-parties and (ii) third party equipment, telecommunications and software suppliers. Should such circumstances occur, the nonconforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of the Agreement. If NovoaGlobal is delayed in the performance of the services for more than three hundred sixty-five (365) calendar days, either by the



Customer or circumstances beyond his control, an equitable adjustment to the contract amount can be made to compensate for additional costs incurred.

For delays in performance by NovoaGlobal caused by circumstances which are within its control, such delays shall be documented and presented to the Purchasing Department at the conclusion of Project and acknowledged by both Customer and NovoaGlobal. Completed form shall be retained by Customer for a period of seven years and reviewed prior to NovoaGlobal selection for future Customer projects. In the event NovoaGlobal is delayed in the performance of Services because of delays caused by Customer, NovoaGlobal shall have no claim against Customer for damages or contract adjustment other than an extension of time.

**21. DISPUTE RESOLUTION.** Claims, disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement, or breach thereof, shall be subject to mediation in Chattanooga, Tennessee, in accordance with the following provisions:

- a. The mediation shall be conducted by a mediator mutually acceptable to both Parties.
- b. The Parties agree to share equally in the expense of the mediation.
- c. Such mediation may include NovoaGlobal or any other person or entity who may be affected by the subject matter of the dispute.
- d. Unless the Parties agree otherwise, mediation shall be a condition precedent to the exercise of any legal remedy other than a proceeding seeking an immediate injunction or restraining order to protect the rights of a party pending litigation. Notwithstanding the issuance of an injunction or restraining order, or the refusal of a court to issue such an order, the dispute shall continue to be subject to mediation.

**22. GOVERNING LAW; JURISDICTION; VENUE.** The parties agree that this Agreement is consummated, entered into, and delivered in Hamilton County, Tennessee. 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 Tennessee and the Codes of the City of Chattanooga. 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 or Federal court of competent jurisdiction located in Hamilton County, Tennessee. The parties waive any and all rights to have this action brought in any place other than Hamilton County, Tennessee, 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.

**23. ATTORNEY'S FEES AND COSTS.** 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.

**24. GENERAL AND MISCELLANEOUS.**

**24.1.** Time shall be of the essence of this Agreement.

**24.2.** 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.

**24.3.** Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this Agreement.

**24.4.** Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

**24.5.** This Agreement may be executed in counterparts, each constituting a duplicate original, but such counterparts shall constitute one and the same Agreement.

**24.6.** The obligations of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors and assigns of the Parties to this Agreement from and after the Effective Date.

**24.7.** 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.

- 24.8.** This Agreement represents the entire and integrated agreement between Customer and NovoaGlobal. All prior and contemporaneous communications, representations, and agreements by NovoaGlobal, whether oral or written, relating to the subject matter of this Agreement, are hereby incorporated into and shall become a part of this Agreement.
- 24.9.** 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.
- 25. 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 5.5, 6, 9.2, 9.3, 10, 12, 21, 22, 23, 24, and this Section 25. 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.
- 26. 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.
- 27. CHANGES IN STATE LAW.** Pursuant to Tenn. Code Ann. § 55-8-198, the Parties agree that this contract must conform to any revision in Tennessee law regarding unmanned traffic enforcement cameras. To the extent that there is a change in Tennessee law, the Parties agree to amend this contract to comply therewith.

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 Effective Date.

[SIGNATURE PAGE TO FOLLOW]

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

NovoaGlobal Inc.

\_\_\_\_\_  
Carlos Lofstedt  
President and CEO  
Date \_\_\_\_\_

City of Chattanooga, TN

\_\_\_\_\_  
Blythe Bailey  
Administrator  
Chattanooga Dept. of Transportation  
Date \_\_\_\_\_

## EXHIBIT A SERVICES

NovoaGlobal shall provide the Customer with the Systems. In connection with furnishing the Systems, NovoaGlobal 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. NovoaGlobal will install up to forty (40) Systems (which shall remain property of NovoaGlobal), monitoring such locations as the Customer and NovoaGlobal shall mutually agree. Up to forty (40) additional Systems may be added at the option of the Customer with NovoaGlobal's consent. Each System shall comprise equipment capable of monitoring red light and/or speeding violations at a single approach to an intersection for up to three lanes of traffic. NovoaGlobal will install new Systems upon mutual agreement of the Parties.
- 1.1.2. The Customer hereby orders the following Systems that are already installed:
  - 1.1.2.1. One (1) fixed Speed System: TNCHFS02
  - 1.1.2.2. Two (2) Red Light Systems: TNCHRL01 and TNCHRL02
- 1.1.3. Nothing in this Section or Agreement shall obligate the Customer to purchase a minimum number of Systems or lease any additional Systems other than those listed in 1.1.2.
- 1.1.4. *Substitution, Relocation, or Addition of a Site.* If NovoaGlobal or the Customer 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.

- 1.1.5. *Timeframe for Installation of the System.* NovoaGlobal shall install and activate the Systems in accordance with an Implementation Plan to be mutually agreed to by NovoaGlobal and the Customer, which installation shall, at minimum, conclude within sixty (60) days after all necessary permits and approvals are received by NovoaGlobal. NovoaGlobal shall use generally accepted industry standards and 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 NovoaGlobal and are not guaranteed.
- 1.1.6. *Installation/Ownership of the System.* NovoaGlobal shall procure, install and provide support of Equipment at each of the agreed upon locations. As between NovoaGlobal and the Customer, all components for the System will remain the property of NovoaGlobal.

## 1.2. *Installation*

- 1.2.1. NovoaGlobal shall submit plans and specifications to the Customer for review and approval, which review and approval will not be unreasonably withheld, conditioned or delayed. These plans and specifications shall be signed and stamped as approved by a professional engineer licensed to practice in the State in which the Customer is located if the same is required by law. NovoaGlobal shall provide at least three (3) 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 NovoaGlobal 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. 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.

1.2.4. 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, NovoaGlobal shall remove the System and restore the affected public facilities including returning the intersections to their original condition; provided, however, that NovoaGlobal 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 NovoaGlobal thereby will be the responsibility of NovoaGlobal.

1.4. Compliance with Law. NovoaGlobal shall design and install the System in compliance with all currently existing federal, state and local laws and regulations. NovoaGlobal covenants and agrees that its Systems shall, at all times, comply with all applicable laws, regulations, rules and orders (“Legal Requirements”). NovoaGlobal shall continuously monitor the status of such Legal Requirements to ensure continuous compliance. In the event of any change in the Legal Requirements, NovoaGlobal shall modify or replace (at its sole cost) all or any portion of its non-compliant Systems. Any such modification shall be effected by NovoaGlobal 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 NovoaGlobal’s 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 NovoaGlobal of its obligation to restore each site to its original condition.

2. **TRAINING OF CUSTOMER PERSONNEL.** After System installation, NovoaGlobal 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 NovoaGlobal at NovoaGlobal’s expense. NovoaGlobal 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, NovoaGlobal shall provide these on a cost reimbursement basis. Additionally, NovoaGlobal 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. NovoaGlobal 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 law, local law, and in accordance with court of jurisdiction specification, transfer the citations to the Chattanooga Police Department's computer for review and decision on whether or not to issue a citation. If NovoaGlobal is permitted by applicable law or regulation to do so, NovoaGlobal shall also review all DMV information and print and mail citation forms that have been approved by the Chattanooga Police Department for issuance. NovoaGlobal 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, NovoaGlobal 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, NovoaGlobal will not process nor support any citations not captured by the System and/or approved by the Customer.
- 3.2. Mailing of Citations. NovoaGlobal shall mail an original color Citation and one black and white reminder notice. Citations shall be mailed to the violator as soon as is reasonably practicable, and in no event longer than five (5) business days after being approved by the Customer and NovoaGlobal has been notified of such approval. Up to three (3) reminder notices will be mailed in a time frame consistent with law and the Customer's direction. The form of citation shall be subject to the approval of the Customer, which approval may not be unreasonably delayed, conditioned or withheld. All notices of violation or citations shall have a Chattanooga, Tennessee return address, and all responses and payments shall be directed to be mailed to a Chattanooga, Tennessee address.
- 3.3. Cooperation With Police and the Courts. NovoaGlobal shall be responsible for, and pay for the cost of issuing and mailing the citations, as approved by Customer, in accordance with applicable law. NovoaGlobal 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, NovoaGlobal will cooperate with the Courts to set up the necessary communications, systems for processing and upon request establish procedures that will enable NovoaGlobal to send delinquent notices to those registered owners/drivers for whom such notices are appropriate.



- 3.4. Rental car and business vehicles. NovoaGlobal will coordinate with the Customer and Courts to establish an acceptable procedure to streamline and coordinate the processing, notification, and accountability of rental car violations and corporate vehicle violations.
- 3.5. Preparation of Evidence Packages. NovoaGlobal 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.
- 3.6. Access to License Information. NovoaGlobal shall maintain the ability to access the driver's 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 NovoaGlobal. If NovoaGlobal is unable to access such information, NovoaGlobal 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 NovoaGlobal, within a reasonable period of time. Any costs incurred by the Customer in obtaining this information (including personnel costs) shall be reimbursed by NovoaGlobal.
- 3.7. Numbering System. NovoaGlobal, in coordination with the Customer, shall develop and implement an independent numbering system for automated citations and correlating the original violations with nominations.
- 3.8. Transmission of Information. NovoaGlobal shall make all citation information available via an electronic file using comma separated value files on a secure FTP site. NovoaGlobal shall maintain a documented chain of custody for all electronically transmitted information while the information is under NovoaGlobal's control.
- 3.9. Customer Service. NovoaGlobal 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. ET, 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, NovoaGlobal shall Maintain the System (as such term is defined below); provided however, that NovoaGlobal shall not be responsible for any maintenance, repair or replacement required as a result of the negligence or intentional act of the Customer, its employees, agents or independent contractors (other than NovoaGlobal) and/or (ii) any equipment or software not provided by NovoaGlobal. NovoaGlobal shall maintain a

maintenance log that documents all service issues. To "Maintain the System" shall mean to keep or promptly return the System to 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 immediately and repairs commenced within twenty-four (24) hours of the time NovoaGlobal receives notice thereof. NovoaGlobal shall also install all software revisions for Systems and Ticket Agent as and when developed and made commercially available by NovoaGlobal.

- 4.2. Equipment Checks. NovoaGlobal 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.

## 5. PUBLIC EDUCATION CAMPAIGN

- 5.1. Public Awareness Program. NovoaGlobal 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 City 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. NovoaGlobal 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. NovoaGlobal 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.

## 7. REPORTING

- 7.1. Monthly Report. NovoaGlobal 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 each calendar month and NovoaGlobal shall provide web access to such reports.
- 7.2. Additional Reports or Information. NovoaGlobal agrees to provide at no additional charge any reports and information requested by the Customer that are reasonably necessary for the Customer to evaluate the effectiveness of the System, respond to press inquiries, evaluate the effectiveness of the Customer's photo enforcement program or to respond to report requests from the Customer's legislative, executive or judicial officials. Additional reports which the Customer may request shall include financial, technical, historical, violation, engineering or others as required.
- 7.3. Database. NovoaGlobal shall maintain a database with the following information per violation:
  - 7.3.1. Location, date and time
  - 7.3.2. Number of seconds of yellow traffic signal and speed of vehicle
  - 7.3.3. Vehicle description including license plate state and number
  - 7.3.4. Applicable vehicle code section violated (if available to NovoaGlobal)
  - 7.3.5. Citation prepared or reason for not preparing citation (if available to NovoaGlobal)
  - 7.3.6. 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 NovoaGlobal) (Affidavit of Non-Liability)
  - 7.3.7. Status of citation (outstanding, cancelled, reissued, paid, bail forfeited, traffic school, warrants issued, etc.) (if available to NovoaGlobal)
  - 7.3.8. NovoaGlobal 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 the Customer, and otherwise in accordance with Tennessee Statutes and Customer Ordinances, as same be amended from time to time. Upon receipt of a request from the Customer for a copy of

any record being maintained by NovoaGlobal, NovoaGlobal 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 NovoaGlobal.

7.3.9. Accounting records necessary to support NovoaGlobal invoices shall be kept for seven (7) years from issuance date, and shall be available to the Customer or its authorized representative at mutually convenient times; and

7.3.10. All records which are requested by or otherwise sent to the Customer pursuant to this section shall be sent in electronic format, if reasonably practicable.

7.4. Additional Services (if requested by the Customer in writing):

7.4.1. Payment Processing Services. NovoaGlobal shall use reasonable commercial efforts which are mutually agreeable to the Customer's 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 Customer's treasury and the courts NovoaGlobal will provide an online payment portal for violators.

7.4.2. Intersection Assessment Program. NovoaGlobal will provide all equipment, including cameras, recording devices, detectors, and technical assistance to the Customer in order for the Customer to generate a video-based analysis of an intersection designed to evaluate the frequency of red-light violations for each approach at the targeted intersection. NovoaGlobal shall provide the type of media and for the duration required by the Customer to comply with Tenn. Code Ann. § 55-8- 198(g), but not to exceed two (2) weeks for each intersection.

7.4.3. NovoaGlobal will install optional Video Monitoring Systems (VMS) in connection with any System at the request of the Customer. Such VMS shall include an IP addressable digital video camera inside a secure virtual private network, video streaming to the police department via secure, encrypted network to a supplied digital video recording device capable of storing at least thirty (30) days of video. Pricing for this option will be negotiated based on the Customer's selection of options (such as zoom cameras, PTZ cameras, license plate recognition and the like)

7.4.4. All citation data will be kept for a period of time consistent with the state of Tennessee's requirements for public records

**EXHIBIT B**  
**LICENSE AGREEMENT FOR NOVOAGLOBAL 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 NovoaGlobal Inc. (“NovoaGlobal”) for the NovoaGlobal 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 NovoaGlobal. 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 NovoaGlobal 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 NovoaGlobal. 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 NovoaGlobal. Without prejudice to any other rights, NovoaGlobal 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 NovoaGlobal reasonable access to its computer system for the purpose of removing all copies of the SOFTWARE PRODUCT or deliver to NovoaGlobal or destroy all copies of the SOFTWARE PRODUCT and all of its component parts.
3. SUPPORT SERVICES AND UPGRADES. NovoaGlobal 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 NovoaGlobal as part of the Support Services,

NovoaGlobal may use such information for its business purposes, including for product support and development. In particular, NovoaGlobal 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 NovoaGlobal 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 NovoaGlobal or its suppliers. As between the Customer and NovoaGlobal, 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 NovoaGlobal.
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 NovoaGlobal 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, 18, 19, 20, 21 and 23 of the Agreement are hereby incorporated by reference as if herein set forth in full.



**EXHIBIT C**  
**LEASE AGREEMENT FOR NOVOAGLOBAL 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 NovoaGlobal Inc. The Parties hereto agree as follows:

1. LEASE. NovoaGlobal hereby leases to the Customer and the Customer hereby leases from NovoaGlobal, 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 NovoaGlobal’s prior written consent.
3. CONDITION. NovoaGlobal 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 NovoaGlobal’s 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 NovoaGlobal, 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 NovoaGlobal reasonable access to remove the Equipment at NovoaGlobal’s expense.
5. OWNERSHIP, LIENS. The Equipment is and shall at all times be the property of NovoaGlobal. The Customer agrees to take all action necessary or reasonably requested by NovoaGlobal 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, NovoaGlobal wishes to place on the Equipment labels, plates or other

markings evidencing ownership, security or other interest therein, the Customer shall allow NovoaGlobal 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 NovoaGlobal.
7. OTHER PROVISIONS. Sections 3, 4, 7, 10, 18, 19, 20, 21, and 23 of the Agreement are hereby incorporated by reference as if herein set forth in full.

**EXHIBIT D**  
**COMPENSATION AND PRICING**

**MONTHLY FEE**

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

- \$27.00 per paid violation.

**EXPANSION TO 10 SYSTEMS**

For 10 operational systems that bring in revenue for Fixed Speed, School Zone Speed, and Red Light; NovoaGlobal will provide free of charge:

- Two (2) LPR systems (max 2 lanes) to be installed at some of those locations.
- One (1) Portable System (P-Armor) for use for educational purposes for crosswalk, stop sign, railroad, oversize, speed or red light. The system could be used for campaigns to send warnings and educate drivers.

**EXPANSION TO 20 SYSTEMS**

For 20 operational systems that bring in revenue for Fixed Speed, School Zone Speed, and Red Light; NovoaGlobal will provide free of charge:

- Four (4) LPR systems (max 2 lanes) to be installed at some of those locations free of charge.
- One (1) Portable System (P-Armor) for use for educational purposes for crosswalk, stop sign, railroad, oversize, speed or red light. The system could be used for campaigns to send warnings and educate drivers.
- One (1) Fixed system (D-Armor) for use for education for crosswalk, stop sign, railroad, oversize, speed or red light. The system could be used for campaigns to send warnings and educate drivers.