

Master Services Agreement

This Master Services Agreement is made on _____, 2023, between Sensys Gatso USA, Inc., a Delaware corporation with a principal business address at 900 Cummings Center, Suite 316-U, Beverly, MA 01915 (“Sensys Gatso”) and the Village of Homewood, an Illinois municipal corporation with a principal business address at 2020 Chestnut Road, Homewood, IL 60430 (the “Customer”).

WHEREAS, Customer previously retained the business and technology services of Sensys Gatso pursuant to an Agreement dated September 8, 2008 (as amended, the “2008 Agreement”);

WHEREAS, Customer now wishes to retain Sensys Gatso for the same and additional (the “Services”) as set forth in this Master Services Agreement (the “Agreement”) and in one or more attachments, incorporated herein by reference (each a “Service Attachment”) to facilitate the detection, issuance and/or processing of violations of one or more of Customer’s traffic law or code enforcement programs (each a “Program”); and

WHEREAS, in connection with each Service, Sensys Gatso agrees to provide the Services and the equipment described in a Service Attachment (“Equipment”); and

WHEREAS, Sensys Gatso also agrees to provide Customer with access to certain proprietary software and technology (the “System”) and associated back-end processing of notices issued to registered owner(s) of vehicles determined to be violating a Program (each a “Notice of Violation”), pursuant to the terms of this Agreement;

NOW THEREFORE, the parties mutually agree as follows:

1. AGREEMENT TERM; TERMINATION

- 1.1. Initial Term and Extensions. This Agreement shall take effect on the date that Sensys Gatso provides Customer with notice of substantial completion of the installation of additional equipment to be installed on or after March 15, 2023 by Sensys Gatso (the “Effective Date”). Prior to the Effective Date, Sensys Gatso and Customer agree to remain bound by the terms of the 2008 Agreement. On the Effective Date, the 2008 Agreement will automatically terminate. The Term of this Agreement shall then continue from the Effective Date for a period of five (5) years (“Initial Term”). Upon expiration of the Initial Term, the Agreement will automatically renew for a two (2) year term (each an “Extension Term” and, collectively with the Initial Term, the “Term”), unless either party provides a written notice declining to extend not later than thirty (30) days prior to expiration of the then-current Initial Term or an Extension Term. Except as otherwise set forth herein, Extension Terms are subject to extension 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 Extension Term.
- 1.2. Termination by Agreement. This Agreement may be terminated at any time by the mutual written agreement of Sensys Gatso and Customer.
- 1.3. Termination for Cause. Either party may terminate this Agreement or any Service Attachment, as applicable, for cause if the other party has breached its obligations under the Agreement or the applicable Service Attachment provided. In the event of a termination under this Section 1.3, the terminating party must provide sixty (60) days advance written notice to the other party of its intent to terminate, which

notice must include the reasons for the termination. The notice must provide the other party with an opportunity to cure the breach during the sixty (60) day period following receipt of the notice. However, if the nature of such default is such that it cannot reasonably be cured within such period, the party required to cure shall be deemed to have cured such default if within such period such party commences performance thereof and thereafter diligently prosecutes with proof the same to completion.

- 1.4 Termination by Sensys Gatso due to Change in Law. Sensys Gatso may terminate this Agreement or any Service Attachment by giving Customer not less than ninety (90) days' prior written notice if (a) applicable law is amended, or a federal or state agency adopts a rule or other requirement, to prohibit or substantially restrict the operation of automated traffic law or code enforcement systems described in a Service Attachment, including the Equipment and System being provided by Sensys Gatso; or (b) 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 (each of (a) and (b) is a "Change in Law"). Notwithstanding the foregoing, Sensys Gatso or Customer may, following Sensys Gatso's notice of termination under this Section 1.4, choose to immediately suspend the Services described in such Service Attachment, upon the effective date of such Change in Law.

Notwithstanding the foregoing, Sensys Gatso shall not terminate this agreement or any service attachment due to Change in Law until (1) legal action involving the customer related to Change in Law has been resolved; or (2) in the case of a Change of Law that substantially restricts the operation of automated traffic law or code enforcement systems, but does not prohibit such systems, until the Parties have had a reasonable opportunity to confer in good faith regarding mutually acceptable amendments to this Agreement or the Services to permit the continued operations of the Services.

- 1.5. Effect of Termination or Expiration. On the termination date or on the first day after any other date of termination or expiration of this Agreement ("Effective Date of Termination"), the Services shall immediately cease. The following Sections of the Agreement shall survive any termination or expiration of the Agreement: 1.5 (Effect of Termination), 1.6 (Removal of Equipment), 2.1 (Service Fees), 3.8 (Storage of Violation Data), 4.2 (Cooperation), 5.3 (Indemnification Obligations), 5.6 (Applicable Law; Jurisdiction and Venue), and 5.16 (Notices). Notwithstanding the foregoing, unless otherwise prohibited by law, Sensys Gatso will continue to provide customer service team coverage for ninety (90) days after the "Effective Date of Termination" and shall process Program violations detected or issued pursuant to this Agreement prior to the Effective Date of Termination until such violation is dismissed by Customer, payment is made, or judgment is entered by a court.
- 1.6. Removal of Equipment. Within forty-five (45) days following the Effective Date of Termination, Sensys Gatso shall retrieve all Equipment from Customer. Customer shall not charge any storage fees for the Equipment during this period. Sensys Gatso shall be responsible for obtaining any permits required to remove equipment from appropriate agencies. Customer shall agree to waive any permit fees that would be paid to Customer which Customer is legally permitted to waive.

2. COMPENSATION

2.1. Service Fees. Customer shall pay Sensys Gatso all fees set forth in one or more Service Attachments (the “Service Fees”) within thirty (30) days of a receipt of an invoice therefore.

2.2. Service Fees Payment.

2.2.1. Invoicing. Sensys Gatso shall invoice the Customer for service fees on or before the 30th day of each month. Payment terms are thirty (30) days net from the date of invoice. Each invoice shall state the total quantity of citations collected and service fees owed to Sensys Gatso. A late fee of 1.5% will be added to all fees not paid within 15 days after the Due Date. The late payments will be added to the invoices of the next month.

2.2.2. Fees are Sole Compensation. Except as explicitly set forth in a Service Attachment, the Service Fees, any Termination Fees, and any Credit Card Convenience Fees, as defined in Section 3.6, shall be Sensys Gatso’s sole compensation for the Services. Sensys Gatso shall remain responsible for all costs and expenses associated with the supply, installation, commissioning, operation, maintenance, repair, replacement, and removal of the Equipment and maintenance of the System unless otherwise set forth in this Agreement or a Service Attachment.

3. SCOPE OF SERVICES

3.1. Sensys Gatso Project Manager. Sensys Gatso will designate one Sensys Gatso employee as Customer’s principal contact at Sensys Gatso (“Sensys Gatso Project Manager”). Sensys Gatso reserves the right to replace the employee designated as the Sensys Gatso Project Manager at its discretion. In the case Sensys Gatso designates a new employee as the Sensys Gatso Project Manager, it will give Customer written notice of the new employee’s name and contact information. The Sensys Gatso Project Manager shall be generally available between 0800 hours and 1700 hours (CST) Monday through Friday (excluding holidays) by phone and/or e-mail. Sensys Gatso will also provide customer with a dedicated “hotline” number for emergencies situations. The Customer’s principal contact is designated to address all other Client needs. Phone calls or e-mails shall be returned by the Sensys Gatso Project manager or a Sensys hotline support team member within one (1) hour for all equipment and software related issues that have resulted or will result in degraded or cessation of operation. All other phone calls or e-mails shall be returned within one (1) business day.

3.2. Services; System Operation. Sensys Gatso shall perform the Services in accordance with the Business Rules, as defined in Section 4.4. Sensys Gatso shall operate the System on a continuous, 24-hour basis, seven (7) days per week, except for reasonable scheduled and unscheduled downtime, and Force Majeure as set forth in Section 5.10. Sensys Gatso shall notify the Customer two (2) business days prior to any scheduled downtime in writing. The System shall utilize commercially reasonable security protocols and shall be accessible by end-users employed by the Customer, and, to the extent required to provide the Services, the general public, over the internet through supported web browsers. Sensys Gatso shall install, operate, and maintain the System in accordance with the provisions of the Village’s Municipal Code,

Section 11-208.6 of the Illinois Vehicle Code, 625 ILCS 5/11-208.6, and any other applicable law.

- 3.3. System Upgrades. In the event Sensys Gatso makes upgrades to the software or related performance capabilities of the System generally available to other customers, Sensys Gatso will provide such upgrades without charge to Customer. This Section 3.3, shall not, however, entitle Customer to receive any additional Services or Equipment other than those described in the Service Attachment. If subsequent to the execution of this Agreement the State of Illinois LED traffic signal requirements change, Sensys Gatso and the Village shall each bear fifty percent (50%) of the cost of future state-mandated LED traffic signal upgrades. However, either party shall have the right to decline participation in future upgrades and terminate the contract.
- 3.4. Customer Personnel Training. On days and at times agreed by the parties, Sensys Gatso will provide training to Customer personnel designated by Customer with respect to accessing and using the System. Sensys Gatso may make available to Customer certain written materials to support Customer personnel use of the System (the "Training Materials").
- 3.5. Notices of Violation. Except for Notices of Violation issued by Customer personnel at the time of violation, Sensys Gatso shall issue a Notice of Violation to the registered owner(s) of each vehicle identified by Customer personnel as described in a Service Attachment, in a form and manner approved by Customer. With respect to any registered owner(s), who has not paid a Notice of Violation in a timely manner, Sensys Gatso shall send additional notices thereafter as further described in a Service Attachment.
- 3.6. Payment Methods; Telephone Support. Sensys Gatso shall provide the registered owner(s) or designated violator the opportunity to pay or request to contest a Notice of Violation using one of the following methods: web, telephone, and mail. To the extent permitted by applicable law, Sensys Gatso may pass through to registered owners any reasonable credit card convenience fees imposed upon Sensys Gatso by its suppliers for violations paid by credit card ("Credit Card Convenience Fee"). Registered owners may remit payment to Sensys Gatso by mail in the form of a money order or check drawn upon a U.S. bank in order to avoid paying the Credit Card Convenience Fee. Customer shall have no obligation for the payment of any Credit Card Convenience Fee. 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. Sensys Gatso shall respond to customer inquiries or questions within one business day.
- 3.7. Deposit of Fines. Sensys Gatso will collect Notice of Violation fines from those who voluntarily pay and shall have authority to receive such payments and endorse checks, drafts, money orders and other negotiable instruments which may be received in payment on Customer's behalf. Sensys Gatso will place such amounts in a separate account with a banking institution approved by Customer ("Master Account"). The Master Account shall be established in a manner which permits: (a) funds to be swept to a Customer-designated bank account by Sensys Gatso; and (b) for Customer to have viewing rights to the Master Account. Sensys Gatso will sweep Notice of Violation fines from the Master Account to the Customer-designated bank account weekly.
- 3.8. Storage of Violation Data. Sensys Gatso will store all violation data for five (5) years after payment or final

adjudication of such violation or such longer period as required by applicable law. Customer shall have reasonable access to the violation data during the storage period.

- 3.9. NLETS Requirements. All authorized Sensys Gatso or subcontractor personnel reviewing vehicle information database or other program obtained via the National Law Enforcement Telecommunications System (“NLETS”) on behalf of Customer shall comply with all applicable federal and state laws and all NLETS requirements. Without limiting the foregoing, Sensys Gatso expressly acknowledges the restrictions imposed by Driver Privacy Protection Act and shall comply therewith.
- 3.10. Reports. The System shall include functionality that permits Customer to run reports with regard to the functioning of the System, including but not limited to the number of Notices of Violation issued and paid, the aggregate amounts paid by registered owners or designated violators, the number of contested Notices of Violation, the amount of scheduled and unscheduled downtime of the System, and such other data as set forth in a Service Attachment or reasonably requested by Customer.
- 3.11. Public Awareness. Sensys Gatso shall, to the extent permitted by law, assist and support Customer’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 Customer with a pamphlet that Customer may reproduce and distribute to Customer residents (each a “Pamphlet”). The Pamphlet, which may be customized to include branding provided by Customer, shall include a description of the operation of the System in non-technical terms.
- 3.12. Insurance. Sensys Gatso shall, during the Term of this Agreement, maintain insurance coverage in at least the minimum amounts set forth in this Section 3.12:

- a. 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 Illinois.

- b. 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
- c. Comprehensive General Liability, with limits not less than \$1,000,000 Bodily Injury and Property Damage Combined Single Limit. Coverage must be written on an “occurrence” basis.

Sensys Gatso must file with the Village certificates of insurance reflecting the minimum insurance coverage and limits provided in this Section 3.20 prior to commencing work on the System.

4. CUSTOMER RESPONSIBILITIES

- 4.1. Customer Project Manager. Customer will designate one Customer employee as Sensys Gatso’s principal

contact (“Customer Project Manager”). Customer reserves the right to replace the employee designated as the Customer Project Manager at its discretion. In the case Customer designates a new employees as the Customer Project Manager, it will give Sensys Gatso written notice of the new employee’s name and contact information.

- 4.2. Cooperation. Customer will cooperate with Sensys Gatso during all aspects of the planning, installation, implementation, and operation of the Equipment and the System and to perform any other Customer obligations set forth in this Agreement and in any Service Attachments attached hereto. Customer will provide Sensys Gatso, at no cost, all Village permits necessary for the System. Customer will also reasonably assist Sensys Gatso in securing necessary permits from other governmental agencies.

Customer shall: (a) keep all Equipment and Systems in its possession free of all security interests of any kind whatsoever, including liens, encumbrances and claims; (b) take reasonable measures to protect the Equipment and Systems from theft, unauthorized use or vandalism; (c) not remove or have removed any identification marks applied to the Equipment by Sensys Gatso or the manufacturer; (d) use the Equipment and the System with due care and in conformity with all applicable laws; and (e) not modify the Equipment or the System in any way.

- 4.3. Access to Information Services. To the extent required by NLETS or other data provider agreed by the parties, Customer will provide written authorization (in a form reasonably acceptable to Customer) for Sensys Gatso to perform motor vehicle ownership inquiries on behalf of Customer.
- 4.4. Business Rules. Customer will establish and document certain Program parameters as reasonably requested by Sensys Gatso (the “Business Rules”). Customer will provide Sensys Gatso with at least sixty (60) days’ written notice of any proposed change to the Business Rules unless the changes requested are required by a Change in Law impacting the operation of the program. Business Rules shall be deemed Program Data, as defined in Section 5.2.1.
- 4.5. Collection of Unpaid Fines. For any Services for which Sensys Gatso is compensated based on Notices of Violation fines or other fees paid by violators, Customer agrees to take collections action against those registered owners or designated violators that fail to pay or contest a Notice of Violation as set forth in Section 3.7. Customer may retain a third-party collections agency or law firm to recover the fines, including collections costs and expenses, or retain Sensys Gatso to perform such collections activities pursuant to a Collections Service Attachment. Any amounts collected through the collections process described in this Section 4.5 will be included in total Notice of Violation fines collected for the purposes of calculating Service Fees, if applicable.
- 4.6. Change Order. The City may from time to time request changes to the work required to be performed or the addition of products or services to those required pursuant to the terms of this Agreement by providing written notice to Sensys Gatso, setting forth in reasonable detail the proposed changes (a “Change Order Notice”). Upon Sensys Gatso’s receipt of a Change Order Notice, Sensys Gatso shall deliver a written statement describing the cost, if any (the “Change Order Proposal”). The Change Order Proposal shall include (i) a detailed breakdown of the charge and any schedule impact, (ii) a description of any resulting changes to the specifications and obligations of the Parties, (iii) a schedule for the delivery and other

performance obligations, and (iv) any other information relating to the proposed changes reasonably requested by the City. Following the City's receipt of the Change Order Proposal, the Parties shall negotiate in good faith and agree in writing to a plan and schedule for implementation of the proposed changes, the time, manner and amount of payment or price increases or decreases, as the case may be, and any other matters relating to the proposed changes; provided, however, in the event that any proposed change involves only the addition of equipment or services to the existing Designated Intersection Approaches, or the addition of Intersection Approaches to be covered by the terms of this Agreement, to the maximum extent applicable, the pricing terms set forth in this Agreement shall govern. Any failure of the Parties to reach agreement with respect to any of the foregoing as a result of any proposed changes shall not be deemed to be a breach of this Agreement provided each Party acted in good faith.

5. GENERAL PROVISIONS

5.1. Representations and Warranties.

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

- a) it has the independent legal authority to enter into the Agreement and any Service Attachment;
- b) the Equipment will conform with all written specifications provided by Sensys Gatso to Customer;
- c) the Equipment will conform with the intended purpose and use it was designed for;
- d) the Services described herein will be performed in a professional manner with due care and skill;
- e) it will perform the Services in compliance with all applicable federal, state, 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*;
- f) it is not barred by law from contracting with Customer or with any other unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Department of Revenue in the state in which Customer is located 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 (ii) any finding of recovery made against Sensys Gatso by the Auditor of such state;
- g) the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to Customer prior to the execution of this Agreement and that this Agreement is made without collusion with any other person, firm, or corporation; and

- h) 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 Customer 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.
- i) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 5.1:
 - 1. 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.
 - 2. SENSYS GATSO MAKES NO WARRANTY THAT THE SERVICES, THE EQUIPMENT OR THE SYSTEM WILL MEET CUSTOMER'S REQUIREMENTS, OR THAT THE SERVICES AND 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, THE EQUIPMENT OR THE SYSTEM. THE PROGRAM DATA AND PROGRAM MATERIALS ARE PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND.

5.1.2. Customer represents and warrants that at all times during the Term:

- a) it has the independent legal authority to enter into the Agreement and that it has complied with any and all applicable federal, state, and local procurement requirements in connection therewith;
- b) it has the legal right to grant the licenses set forth in Section 5.2.3; and
- c) it will establish Business Rules, and utilize the Services and the System, in compliance with all applicable federal, state and local laws.

5.2. Ownership; Licenses.

5.2.1. Program Data. Customer shall retain all right, title and interest in and to any information, data, study findings, or report content created by Sensys Gatso related specifically to the Program or its operation ("Program Data"). Customer grants to Sensys Gatso: (a) a non-exclusive, worldwide, royalty-free, fully paid up, sub licensable, non-transferrable right and license during the Term to copy, distribute, display and create derivative works of and use Program Data solely to perform the Services; and (b) a perpetual, irrevocable, non-exclusive, worldwide, royalty-free, fully paid up, right and license to use Program Data solely in an aggregated, de-identified or anonymized

format such that Customer, its personnel and violators are not identified, in order to evaluate and enhance Sensys Gatso's systems and services. Sensys Gatso and its affiliates may identify Customer as an entity utilizing the Services and the System in its marketing materials, including but not limited to its website and proposals to perform the same or similar Services for others, without the prior written consent of Customer.

5.2.2. Program Materials. Sensys Gatso shall retain all right, title and interest in and to any information, data, software (including with respect to any System integration performed by or on behalf of Sensys Gatso), templates, studies, reports or other documents, including Training Materials, Pamphlets, and other materials used generally by Sensys Gatso in performing services for its clients ("Program Materials"). Sensys Gatso grants to Customer a non-exclusive, royalty-free, fully paid up, non-sub licensable, non-transferrable right and license during the Term to create a limited number of copies, distribute, display and create derivative works of and use, Program Materials solely by its authorized personnel for Customer's internal use in connection with the Services.

5.2.3. Customer Marks. Customer hereby grants to Sensys Gatso and its affiliates a non-exclusive, non-transferable, sub licensable, license during the Term to use, reproduce, display, and distribute the Customer name, seal, logo, domain name and other marks owned or controlled by Customer ("Customer Marks") solely in connection with the Program Materials and as otherwise required in connection with the performance of the Services. Sensys Gatso will provide Customer the opportunity to review and approve all uses of the Customer Marks. Notwithstanding the foregoing, Sensys Gatso and its affiliates may identify the Customer as an entity utilizing the Services in its marketing materials, including but not limited to its website and proposals to perform the same or similar services for others, without the prior written consent of Customer. Nothing in this Agreement grants the Customer any right to use the name, logo or other marks of Sensys Gatso or its affiliates except as incorporated in Program Data and Program Materials, or otherwise with the prior written consent of Sensys Gatso.

5.3. Indemnification Obligations.

5.3.1. Sensys Gatso shall indemnify, defend, and hold harmless the Customer 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 Customer Indemnitees) from and against any and all losses that may be imposed on or incurred by the Customer Indemnitees arising out of or in any way related to:

- a) any material representation, inaccuracy, or breach of any covenant, warranty, or representation of Sensys Gatso contained in this Agreement.
- 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 Customer Indemnitee; or

- c) any claim, action, or demand not caused by the Customer's failure to perform its obligations under this Agreement.
- 5.3.2. Notwithstanding anything to the contrary in this Agreement, neither Sensys Gatso nor the Customer will be liable to the other, by reason or any representation or express or implied warranty, condition, or other term or any duty at common or civil law, for any lost profits or any indirect, incidental, or consequential damages however caused.
- 5.3.3. In the event any claim, action, or demand (collectively a "Claim") in respect of which the Customer seeks indemnification from Sensys Gatso, the Customer must give Sensys Gatso written notice of such Claim promptly after the Customer 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 Customer, which approval may not be unreasonably withheld, conditioned, or delayed) and to control and settle the Claim. The Customer will have the right to participate in the defense at its sole expense.
- 5.3.4. To the extent not prohibited by the laws of the state in which Customer is located, Customer shall indemnify, defend, and hold harmless Sensys Gatso and its affiliates, shareholders or other interest holders, managers, officers, directors, employees, agents, representatives and successors, permitted assigns and all persons acting through, by, under or in concert with them (including but not limited to Equipment or System suppliers and installers) (the "Sensys Gatso Indemnitees") from and against any and all third party claims arising out of or related to:
3. any material breach of the representations and warranties of Customer set forth in Section 5.1.2;
 4. negligence or misconduct of Customer 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 Sensys Gatso Indemnitee; or
 5. the validity of the results of Customer's use of the System or any portion thereof; or the validity of any Notice of Violation issued, prosecuted, and collected as a result of Customer's use of the System except to the extent caused by Sensys Gatso's failure to comply with the terms of the Agreement.
- 5.4. Relationship between Sensys Gatso and Customer. 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.
- 5.5. Assignment; Successors and Assigns. 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. Sensys Gatso further reserves the right to use third party contractors to fulfill its obligations to provide certain Services provided that Sensys Gatso shall be responsible for the performance of such

subcontractors in accordance with the terms of this Agreement. The Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns

- 5.6. Applicable Law; Jurisdiction and Venue. This Agreement is governed by and construed in all respects in accordance with the laws of the state in which Customer is located, 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 and venue in the state in which Customer is located, and both parties specifically agree to be bound by the jurisdiction and venue of such courts.
- 5.7. Compliance with Laws. Sensys Gatso must provide and perform all services under this Agreement in compliance with, and Sensys Gatso agrees to be bound by, all applicable federal, State of Illinois, and local laws including without limitation the Fair Labor Standards Act; any statutes regarding 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.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*
- 5.8. Not Barred; No Collusion. Sensys Gatso hereby represents that it is not barred by law from contracting with the Customer or with any other unit of the state or local government as a result of (a) a delinquency in the payment of any tax administered by the Illinois 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 amount of the tax as set forth in in 65 ILCS 5/11-42.1-1 or (b) a violation of either Sec. 33E-4 of Art. 33 of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.*
- 5.9. Disclosure of Interested Persons. Sensys Gatso hereby represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Customer 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 Customer for all loss or damage that the Customer may suffer thereby, and this Agreement will be null and void, at the Customer's option.
- 5.10. Patriot Act Compliance. Sensys Gatso represents and warrants that to the Customer that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable is a person or entity named as a Specially 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 Specially Designated National and Blocked Person. Sensys Gatso further represents and warrants to the Customer 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 name as a Specially Designated National and Blocked Person. Sensys Gatso hereby agrees to defend, indemnify, and hold harmless the Customer, its corporate authorities, and all Customer appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses, including reasonable attorneys' fees and costs arising from or related to any breach of the foregoing representations and warranties.

- 5.11. Force Majeure. Neither party shall be liable for delays in the performance of its obligations hereunder to the extent due to a Force Majeure Event or the negligence or misconduct of a third party. “Force Majeure Event” means conditions or other circumstances, such as acts of God that: (a) were not foreseen, and could not have been reasonably foreseen, but the party obligated to perform, (b) are beyond the control of the party obligated to perform, and (c) 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 delays in transportation, epidemics, earthquakes, severe adverse weather conditions not reasonably anticipated, and delays in permitting.
- 5.12. Escalation Procedure. The following procedure will be followed if resolution of a conflict arising during the performance of this Agreement is required:
- 5.12.1. When a conflict arises between Customer and Sensys Gatso, the project team members will first strive to work out the problem internally.
 - 5.12.2. If the project team cannot resolve the conflict within five (5) business days, the Customer Project Manager identified pursuant to Section 4.1 and the Sensys Gatso Project Manager identified pursuant to Section 3.1 will confer to resolve the issue.
 - 5.12.3. 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 confer with a senior level administrator for Customer within five (5) days to resolve the issue.
 - 5.12.4. If no resolution is reached pursuant to Section 5.12.3, the parties may mutually agree to terminate the Agreement pursuant to Section 1.2 or seek any available legal or equitable remedies.
 - 5.12.5. During any conflict resolution as described in this Section 5.12, Sensys Gatso agrees to provide the Services relating to items not in dispute, to the extent practicable, pending resolution of the conflict. Customer agrees to reasonably cooperate with Sensys Gatso’s provision of such services and shall pay invoices per the Agreement.
- 5.13. Entire Agreement; Amendment. This Agreement and its Service Attachments constitutes the entire agreement between the parties about the Services and supersedes all prior and contemporaneous agreements or communications, including without limitation the Agreement of the parties dated September 8, 2008 and all subsequent amendments hereto, except with respect to those provisions that survive the termination or expiration thereof. This Agreement and any Service Attachment may only be amended by a writing specifically referencing the section of the Agreement or Service Attachment to be amended and which has been signed by authorized representatives of the parties.
- 5.14. Counterparts; Electronic Signature. 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 signature or copy of this Agreement made by reliable means (for example, photocopy,

electronic signature or electronic mail) shall be considered an original.

- 5.15. 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.
- 5.16. 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, whether or not made in writing, will not be deemed a waiver of any subsequent instances.
- 5.17. 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 in-person delivery or confirmed electronic mail, to the parties at the addresses first set forth herein.
- 5.18. LIMITATION OF LIABILITY. EXCEPT FOR AMOUNTS PAYABLE WITH RESPECT TO THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 5.3: (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 SERVICE FEES PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE SERVICE ATTACHMENT DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM.

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

Agreed to:

Sensys Gatso USA, Inc.

By: _____
Authorized Signature

William Braden
President
b.braden@sensysgatso.com

Date: _____

Attested to:

By: _____
Authorized Signature

Name (type or print): _____

Date: _____

Agreed to:

The _____ of _____, _____

By: _____
Authorized Signature

Name: _____ Title: _____
Email: _____

Date: _____

Attested to:

By: _____
Authorized Signature

Name (type or print): _____

Date: _____

SERVICE ATTACHMENTS

Fixed Location Traffic Enforcement

This Fixed Location Traffic Enforcement Service Attachment (this “Service Attachment”) is made pursuant and subject to the terms of the Master Services Agreement between Sensys Gatso USA, Inc. (“Sensys Gatso”) and the Village of Homewood, Illinois (“Customer”) dated _____, 2023 (the “Agreement”). This Service Attachment is incorporated into, and governed by the terms of, the Agreement. In the event of a conflict between the terms of the Agreement and this Service Attachment, the terms of this Service Attachment shall prevail solely with respect to the Services described herein. All capitalized terms not otherwise defined herein shall have the meaning given such terms in the Agreement.

1. SERVICE FEES

1.1 Existing Systems and Systems Operational Under 24 Months. For all existing camera systems and any new camera systems operational in a 24 month period after the execution of this agreement the Sensys Gatso fees for services under this Agreement will be paid on a service-fee-per-transaction basis up to a maximum of \$33.00 for any single citation. Sensys Gatso scope of services as provided shall remain the same and are calculated as follows:

1. Image capture	\$5.50
2. Initial review	\$5.50
3. DMV inquiry	\$5.50
4. Second review	\$5.50
5. Police Dept review preparation	\$5.50
6. Citation issuance & mailing	\$5.50

1.2 New Red Light Enforcement Systems installed after the first twenty four (24) months of the Term. Such prices shall be determined by Sensys Gatso and Customer prior to such installation.

1.3 Adjustments for Equipment Downtime. If an installed Red Light Enforcement System is inoperative or needs repair due to knockdown, damage, or road construction, and such repair requires more than ten (10) business days to complete, the [Service Fees] city will be required pursuant to Section 1.1 shall be fifty percent (50%) of the rolling twelve (12) month average of the Service Fees for that system for a period not to exceed six (6) months or until such repair is completed, whichever is earlier; provided, however, that such Service Fee adjustment shall not apply where the Customer is responsible in whole or in part for such delay.

1.4 Consumer Price Index Adjustment. The Service Fees provided in Sections 1.1 and 1.2 of this Service Attachment shall be subject to a Consumer Price Index (“CPI”) adjustment every three (3) years on the Effective Date during the Term (each, an “adjustment Date”). On an Adjustment Date, such Service Fees shall be adjusted by the increase, if any, in the CPI for All Urban Consumers for the region in which the Customer is located as published by the United States Department of Labor’s Bureau of Economic Statistics, or, in the event that the United States Department of Labor ceases to publish such an index, a similar index determined by Sensys Gatso.

2. SCOPE OF SERVICES

- 2.1 Equipment. Sensys Gatso shall operate, and maintain, and where necessary install or replace, fixed location traffic enforcement cameras (each a “Camera”) in accordance with Sensys Gatso’s standard installation and maintenance practices.
- 2.2 Camera Installation; Camera Poles. Sensys Gatso will install Cameras on Customer owned or controlled poles at enforcement locations mutually agreed by Sensys Gatso and Customer based upon community safety considerations. In the event that there is no feasible pole located at an identified location, Sensys Gatso will install a pole at such location subject to the additional terms and conditions set forth in Exhibit A (each a “Camera Pole”).
- 2.3 24-Hour Operation. Sensys Gatso shall operate the Equipment on a continuous, 24-hour basis, seven (7) days per week, except for reasonable scheduled and unscheduled maintenance and repairs and Force Majeure as set forth in Section 5.5 of the Agreement. For the first thirty (30) days after the first Equipment components are activated, Customer may elect to issue warning notices rather than Notices of Violation (“Warning Period”).
- 2.4 Images and Data Processing. Sensys Gatso will: (a) upload encrypted violation images and embedded violation data from the Cameras to the System; (b) correlate images and data with motor vehicle records, and (c) assemble the images and data for each violation detected by a Camera that meets the business rules provided by Customer into an electronic package accessible through the System (each a “Violation Package”). Sensys Gatso will use commercially reasonable efforts to complete these activities within twenty (20) days of the date of violation.
- 2.5 Notices of Violation. Within ten (10) days of approval of a Notice of Violation by Customer pursuant to Section 3.1 of this Service Attachment, Sensys Gatso shall issue a Notice of Violation, including images and data of the violation, to registered owners of vehicles identified in the Violation Package by first class mail. The System shall allow the registered owner(s) to review the images and data related to the notice of violation, through the web-portal by using a unique identifier code included in the Notice of Violation. If a registered owner disputes responsibility for a violation and identifies a different violator in a manner agreed by Customer, then Sensys Gatso will reissue the Notice of Violation to that different violator within ten (10) days after such identification. With respect to any Notice of Violation that is not paid or contested within forty-five (45) days of mailing of the Notice of Violation, Sensys Gatso may send additional notices thereafter, in a form mutually agreed upon by the parties (each a “Subsequent Notice”). Sensys Gatso shall provide reasonable aid and assistance in the prosecution of Notices of Violation issued hereunder, including the provision of fact witnesses, as may be required in a court or quasi-judicial panel of competent jurisdiction, at no additional charge to Customer. The Customer will grant Gatso access to those records necessary in order to meet notification requirements in issuing notices.
- 2.6 Equipment Maintenance and Repair. Sensys Gatso shall maintain the Equipment and shall promptly repair or replace any damaged or defective components at its own expense, except if the damage was caused by the negligent operation of a Customer owned or controlled vehicle. Sensys Gatso shall perform preventative maintenance and cleaning of Equipment components on a regular basis, including review and testing of Camera settings and operation, communications, and other Equipment components. Sensys Gatso will use commercially reasonable efforts to notify Customer and initiate repairs within seventy-two (72) hours after identification of any material damage, defect, or other issue with respect to the Equipment.
- 2.7 Signage. If required by State legislation or local governing ordinance, Sensys Gatso will provide and install necessary signage at no cost to Customer informing inbound traffic that Customer utilizes traffic

law photo-enforcement devices to enforce traffic laws. Sensys Gatso shall provide and install additional signage as requested by Customer and agreed by Sensys Gatso at Customer's expense.

- 2.8 Traffic Studies. If agreed in writing by Sensys Gatso and Customer, Sensys Gatso will conduct an informal traffic study for proposed enforcement locations or other purposes agreed to by the parties (each a "Traffic Study"). Any reports resulting from a Traffic Study will be considered Program Data, as defined in Section 5.2.1 of the Agreement. Notwithstanding anything to the contrary in Section 5.1 of the Agreement, the Traffic Study and any resulting reports are provided "as-is" with no warranties of any kind.

3. CUSTOMER RESPONSIBILITIES

- 3.1 Review of Violations. Customer will provide sworn police officers, community service officers or other designated Customer personnel to carefully review each Violation Package to determine whether: (a) the violation is approved, and a Notice of Violation can be mailed; or (b) the violation is rejected. If the violation is rejected, the Customer Project Manager, identified pursuant to Section 4.1 of the Agreement, will report to Sensys Gatso the basis for the rejection. Customer is solely responsible for determining which violations identified by Sensys Gatso are issued as Notices of Violation.
- 3.2 Customer Infrastructure. Customer will maintain any traffic control devices at enforced locations in good working order and ensure that stop lines or speed zones are clearly marked, as applicable. For Customer owned or controlled poles, Customer will provide Sensys Gatso with access to such poles, and electricity for operation of the Cameras on such poles, at no charge to Sensys Gatso.

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 2.2 of this Service Attachment, the following additional terms and conditions shall apply:

- A. Obtaining Permits. Sensys Gatso shall prepare all permit applications, design drawings and other documents as may be reasonably required by Customer or any other governmental entity for the installation and operation of any applicable Camera Poles. Customer will provide to Sensys Gatso, at no cost, all Customer permits necessary for the installation of Camera Poles 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 Camera Poles. Customer will reasonably assist Sensys Gatso in securing necessary permits from other governmental agencies, as required and shall agree to waive any permit fees that would be paid to Customer which Customer is legally permitted to waive.
- B. Installation. Sensys Gatso will commence installation of the Camera Poles within ten (10) business days after any and all necessary state, county or other 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 traffic control infrastructure at any enforcement location where the Camera Pole will be installed, such upgrades shall be the sole responsibility of Customer.
- C. Restoration of Locations. Upon any expiration or termination of this Service Attachment, Sensys Gatso shall remove any Camera Poles installed pursuant to this Exhibit A and restore such locations to substantially the same condition as existed prior to such installation. 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.