

SERVICE AGREEMENT BY AND BETWEEN

THE CITY OF HAPEVILLE, GEORGIA

AND

OPTOTRAFFIC, LLC

This Service Agreement (the “Agreement”) is made and entered this ____ day of _____, 2019 (the “Effective Date”), by and between Optottraffic, LLC, a Foreign Limited Liability Company with offices at 4600 Forbes Boulevard, Lanham, MD 20706 (“OPTOTRAFFIC”), and the City of Hapeville, a municipal and political subdivision of the State of Georgia, with offices at 3468 N. Fulton Avenue, Hapeville, Georgia 30354 (“CLIENT”).

Background

Whereas, OPTOTRAFFIC is in the business of providing automated traffic violation detection, imaging and administrative services to authorized municipalities and government agencies using OPTOTRAFFIC’S proprietary system (as more specifically described herein below, the “Services”); and

Whereas, CLIENT is an authorized municipality or government agency with a need for such Services; and

Whereas, CLIENT now desires to contract with OPTOTRAFFIC for the provision of such Services;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, CLIENT and OPTOTRAFFIC agree as follows:

1. **Services.** During the Term of this Agreement, and in consideration of the Fees specified in Schedule A, OPTOTRAFFIC shall use reasonable commercial efforts to provide the Services to CLIENT in accordance with the terms and conditions of this Agreement. Services shall include the following:
 - a) Detection and Recording of Potential Traffic Violations. OPTOTRAFFIC will make available to CLIENT certain traffic violation detection systems, which work in conjunction with a photographic, video, or electronic camera and may also include certain equipment provided by third parties, that detect other traffic violations and produce photographs, video or digital images of vehicles potentially violating traffic laws, and which may include, but are not limited to, portable, mobile, handheld and or fixed site camera systems (“Monitoring System”) to detect and record potential traffic violations at the service locations(s) selected by CLIENT (“Recorded Events”). CLIENT agrees to operate the Monitoring System in a manner consistent with the terms and conditions of this Agreement. The Client also agrees to operate all systems in compliance with applicable and prevailing laws of the State, and/or local jurisdiction.
 - b) Initial Validation of Recorded Events. OPTOTRAFFIC will promptly perform a preliminary review of Recorded Events data for the sole purpose of attempting to filter Recorded

Event data that is of insufficient quality for further use. For example, and without limitation, OPTOTRAFFIC may filter Recorded Events data in which no motor vehicle registration plate information or only partial information is reasonably discernible from the Recorded Event. CLIENT will have the sole and exclusive responsibility for the final review of Recorded Events data not filtered by OPTOTRAFFIC and the authorization and issuance of a citation thereafter.

- c) Motor Vehicle Records. OPTOTRAFFIC will promptly retrieve applicable Department of Revenue (DOR) records from Georgia and other states' databases for motor vehicles photographed in Recorded Events using registration plate information from such vehicles, where such information is reasonably discernible from the Recorded Event. CLIENT agrees to provide OPTOTRAFFIC with the required authorizations for OPTOTRAFFIC to effectuate such retrieval of DOR records. The retrieval of DOR records by OPTOTRAFFIC is solely for the purpose of presenting such information to CLIENT and CLIENT shall be responsible for the final review confirming the accuracy of and matching the information to the subject motor vehicle in each instance. OPTOTRAFFIC agrees that it will use all DOR databases in accordance with any use limitations and restrictions imposed by the owner of the database, any government or CLIENT.
- d) Access to Website. After OPTOTRAFFIC has completed its preliminary review of Recorded Events data, OPTOTRAFFIC shall post Recorded Events data not filtered by OPTOTRAFFIC to OPTOTRAFFIC'S proprietary VioView™ software via the Internet to allow for CLIENT'S review of Recorded Events on OPTOTRAFFIC'S website and authorization and issuance of citations. Availability of the website and VioView™ software will be generally twenty-four (24) hours per day, seven (7) days per week; provided, however, that such availability is subject to change without advance notice as a result of system maintenance, unplanned downtime, and other factors and circumstances beyond OPTOTRAFFIC'S control. OPTOTRAFFIC will not be responsible for any such reasonable unavailability or downtime. CLIENT'S use of the website and the VioView™ software is governed by the terms of this Agreement and the Terms of Service posted on the website.
- e) Payments by Mail and Online. Citation payments may be made by check, money order, or credit card. OPTOTRAFFIC, directly and or through OPTOTRAFFIC'S third party processor, will process payments made by mail and, at no additional cost to CLIENT, provide the capability for individuals receiving citations to view and pay citations online by credit card. All citations and delinquent notices will expressly state that all payments of fines are to be made payable to CLIENT at the designated physical or website address. All payments of citations will be deposited into the Lockbox Account described in Section 7 below. Payments of citations will be tracked using the system of record, VioView™ Financial Tracking System ("VioView FTS").
- f) Citations and Delinquent/Final Notices, Printing and Mailing. OPTOTRAFFIC, directly or through OPTOTRAFFIC'S printing services provider, at no additional cost to CLIENT, will print and mail a citation issued by CLIENT or CLIENT'S Approving Authorities (as defined in Section 2(f) below), and as required, one delinquent notice and one final notice for each outstanding citation (collectively, "Notices") to the registered owner/lessee/other

of motor vehicles bearing State of Georgia plates and out-of-state plates to whom a citation has been approved by CLIENT. Such Notices will be in a fixed, standardized format pre-approved by CLIENT. CLIENT will be responsible for ensuring that the format and content of Notices comply with all applicable laws, rules and regulations. Citations will be mailed to the individual and address specified on the issued citations, which shall be the name, and address of the registered owner/lessee/other of the vehicle as shown on the vehicle registration records. Delinquent or Final notice(s) will be mailed to the address on the issued citation, unless an updated address becomes available to OPTOTRAFFIC.

- g) Hearings. OPTOTRAFFIC will make available, at OPTOTRAFFIC's expense, a qualified expert representative to attend and provide testimony for the initial court hearing for citations, provided that OPTOTRAFFIC received at least thirty (30) days prior written notice of each such hearing. OPTOTRAFFIC is not responsible for the outcome of any such hearing. In the event of additional expert testimony requests, CLIENT will reimburse OPTOTRAFFIC for costs incurred in making such expert available to testify, including reasonable travel, lodging and related expenses and time at the expert's then-current hourly rate.
- h) Maintenance and Support. OPTOTRAFFIC will, in a timely and prompt manner, maintain and service the Monitoring System and assist CLIENT personnel who use the Monitoring System. OPTOTRAFFIC will be on call to correct any malfunction that renders the Monitoring System inoperable during enforcement hours. Any and all maintenance records shall be considered Confidential Information (defined hereafter) and shall not be disclosed to CLIENT or anyone else, except as provided in Section 8 of this Agreement.
- i) Training. OPTOTRAFFIC, at no additional charge to CLIENT, will be responsible to train CLIENT to use the Monitoring System. This includes training new users as staffing assignments may change at the sole discretion of the CLIENT.
- j) Service Locations. OPTOTRAFFIC shall provide to CLIENT, without charge, technical advice as to the feasibility of proposed Service Locations.
- k) Citizen Inquiries. OPTOTRAFFIC shall provide, and include on citations, a telephone number to which recipients of citations may call Monday-Friday, 8:00 a.m. to 5:00 p.m. (EST), excluding legal holidays, to speak with a knowledgeable attendant to make inquiries and receive prompt informed answers to questions regarding topics such as citations, billing and payment procedures and status of payments and hearing dates.
- l) Hearing Dockets. Unless agreed otherwise by the parties, on not less than a monthly basis, OPTOTRAFFIC, in consultation with CLIENT, shall prepare and submit to the applicable hearing officer or Court all paperwork and other documentation necessary for scheduling of hearings on all citations then ripe for review or adjudication. OPTOTRAFFIC shall only send a notice to appear at a hearing for recipients of citations who have made a timely hearing request.
- m) Collections Support. OPTOTRAFFIC acknowledges that CLIENT may place the collection of unpaid citations issued pursuant to the terms and conditions of this Agreement and past due debt owed to CLIENT resulting from past due citations with a third party, for purposes of filing collection actions against any motorist and/or debtor who fails to pay amounts

due and owing under any citations. CLIENT shall be solely responsible for any and all court costs, filing fees, collection fees, attorney fees and other expenses incurred. In association with contractual agreements referenced hereunder, OPTOTRAFFIC is hereby authorized to provide a third party with whom the CLIENT contracts to provide debt collections services, with any and all information relevant and/or necessary for the collection of unpaid citations, including personal information of the recipients of the citations, but CLIENT is not obligated to use the third party provided by OPTOTRAFFIC. OPTOTRAFFIC'S obligations to cooperate and provide information to any third party whom the CLIENT contracts to provide debt collections services shall continue throughout the term of the Agreement and for a period of twenty-four months following the termination of this Agreement. CLIENT agrees to pay OPTOTRAFFIC an additional Processing and Administration Fee set forth in Schedule A for providing information and administrative services for the collection effort performed by a third party.

- 2. CLIENT'S Responsibilities.** CLIENT acknowledges that certain aspects of the Service require the participation and cooperation of CLIENT, without which OPTOTRAFFIC'S performance of the Services may be significantly impaired or delayed. CLIENT is responsible for the following:
- a) Service Location. CLIENT will select the location(s) at which the Monitoring System will detect and record potential violations ("Service Location(s)"). After the commencement of service at a Service Location, CLIENT may elect to change the Service Location by notifying OPTOTRAFFIC, but OPTOTRAFFIC reserves the right to decline a request to change a Service Location that in OPTOTRAFFIC'S opinion is technically infeasible. CLIENT may not use the Services for any purpose not allowed by law.
 - b) Preserve the Monitoring System. CLIENT acknowledges that the Monitoring System used to detect and record Recorded Events consists of valuable personal and intellectual property of OPTOTRAFFIC. CLIENT agrees to use its best efforts to safely use, protect and preserve the Monitoring System during the term of this Agreement, including, but not limited to, restricting movement of and access to the Monitoring System by anyone other than CLIENT and OPTOTRAFFIC personnel.
 - c) Use of the Traffic Monitoring System. After installation, the CLIENT has the sole responsibility to use the traffic Monitoring System subject to equipment maintenance, the functions outlined in this Agreement as the responsibility of OPTOTRAFFIC and authorizes OPTOTRAFFIC to be its "Agent" as defined under Article 2 of Chapter 14 of Title 40 Section 1.1 of the Official Code of Georgia Annotated.
 - d) Maintain Daily Self-Test Log. CLIENT will maintain through VioView™ a daily self-test log when applicable to record the Monitoring System's self-test results.
 - e) Designate Citation Approving Authorities. CLIENT shall select and designate certain sworn officers or other duly authorized approving authorities ("Approving Authorities") who shall review Recorded Events, identify traffic violations, and lawfully authorize and issue citations for such identified violations using the VioView™ software and website. CLIENT has sole responsibility for ensuring that the designated approving authorities are duly and lawfully authorized to receive and view DOR records and issue citations for the pertinent traffic violations. OPTOTRAFFIC will assign those authorities a login-ID for accessing

VioView™ software and website. The parties agree that OPTOTRAFFIC shall not be the Approving Authority.

- f) Safeguard Login Information. CLIENT will receive one (1) login-ID to VioView™ per Approving Authority. CLIENT acknowledges that VioView™ login-IDs allow full access to Recorded Event data, including but not limited to, information derived from DMV records, and allows the ability to authorize and issue citations. CLIENT shall be solely and exclusively responsible for safeguarding VioView™ login-IDs and ensuring that unauthorized individuals do not gain access to VioView™. OPTOTRAFFIC will also provide CLIENT one (1) VioView™ FTS login-ID for the exclusive use by individuals authorized by CLIENT to view citations and financial information. It shall be the CLIENT'S responsibility to safeguard the VioView™ FTS login-ID as issued. CLIENT will immediately notify OPTOTRAFFIC of any compromise or suspected compromise of any login-ID within its knowledge. Use of VioView™ FTS is governed by the terms of service posted on the VioView™ Website.
 - g) Collection of Citation Payments by Client. CLIENT shall not collect citation payments in any manner that is inconsistent with the provisions of this Agreement. CLIENT shall instruct individuals to either pay online or mail all such payments to the Lockbox Account described in Section 7.
- 3. Credit Card Payment Processing.** OPTOTRAFFIC will provide the capability for individuals receiving citations to pay their citations by credit card at no additional charge to CLIENT. OPTOTRAFFIC will provide individuals receiving citations access to its website via the Internet to view and pay citations online. OPTOTRAFFIC is solely responsible for the functionality, security and maintenance of the payment system and will ensure that it conforms to all federal, local and state laws, rules and regulations, as well as any and all banking rules and regulations that pertain to all forms of credit card payment. Credit card processing costs will be paid by OPTOTRAFFIC; OPTOTRAFFIC is authorized to charge a reasonable credit card convenience fee to individuals who pay by credit card and such credit card convenience fees are not considered revenue under this Agreement and will be retained in full by OPTOTRAFFIC.
- 4. System Ownership, Operation, Maintenance and Modifications.**
- a) OPTOTRAFFIC does not convey any equipment or system to CLIENT. Equipment or system or any part of the equipment or system provided or used by OPTOTRAFFIC in connection with the provision of Services™ under this Agreement is and shall remain the exclusive property of OPTOTRAFFIC.
 - b) In the event OPTOTRAFFIC determines, in its sole discretion, that CLIENT is not utilizing all or any part of the Monitoring System in a sufficient manner, OPTOTRAFFIC may recall all or any of its Monitoring System and CLIENT agrees to make such recalled portion of the Monitoring System immediately available for retrieval by OPTOTRAFFIC.
 - c) Monitoring System or equipment replacement, repairs, upgrades or modifications which, in the reasonable opinion of OPTOTRAFFIC, are required as a result of neglect, misuse, theft or loss while in the CLIENT'S Possession, including without limitation a repair arising from or in connection with the use of software other than software provided by

OPTOTRAFFIC, shall be made at the sole expense of CLIENT. These costs will be limited to the actual cost of the repair or replacement of said system, along with labor costs at OPTOTRAFFIC'S then-current hourly rate, shipping, and travel expenses, as applicable. An estimate of these expenses shall be provided to the CLIENT within thirty (30) days from the execution of this agreement. CLIENT acknowledges that this is just an estimate of costs associated, and OPTOTRAFFIC may change costs at any time, without providing notice to CLIENT. Otherwise, all such Monitoring System or equipment replacement, repairs, upgrades or modifications shall be made at the sole expense of OPTOTRAFFIC.

- d) Upgrades to OPTOTRAFFIC'S Systems and/or reinstallations and/or modifications of hardware or software which are requested in writing by the CLIENT but reasonably not deemed necessary or required for proper system operation by OPTOTRAFFIC, shall be made at the sole expense of CLIENT. This includes, but is not limited to, the actual cost of the upgrades, modification, or replacements of said system, hardware or software, along with shipping expenses, travel expenses if required, and labor costs at OPTOTRAFFIC'S then-current hourly rate. OPTOTRAFFIC must provide to the CLIENT a detailed accounting of these costs and expenses and the cost and expenses must be pre-approved by CLIENT in writing prior to OPTOTRAFFIC undertaking the upgrade(s).
- 5. Training and Support.** Throughout the Term of this Agreement, OPTOTRAFFIC at no additional cost to CLIENT, agrees to provide training for using the Monitoring System and or VioView™ and or VioView™ FTS software and website. OPTOTRAFFIC will provide a reasonable number of reference manuals describing the features and operations for the Monitoring System, VioView™ and VioView™ FTS. OPTOTRAFFIC, at no additional cost to CLIENT, will issue upon request a signed certificate to CLIENT on completion of all training. OPTOTRAFFIC will endeavor to provide updates to VioView™ and VioView™ FTS software within a reasonable time after they become generally available; provided, however, that OPTOTRAFFIC has no obligation under this Agreement to update or modify its software in any way. Throughout the Term of this Agreement, reasonable technical assistance will be available by telephone at no charge to CLIENT during the hours of 8:00 a.m. to 5:00 p.m. (EST), Monday through Friday (with the exception of all state and nationally recognized holidays).
- 6. OPTOTRAFFIC Fees.** In exchange for the Services described in this Agreement, CLIENT agrees to pay OPTOTRAFFIC the fees set forth on Schedule A. Fees will be calculated based on documentation and reports extracted from VioView™ FTS. CLIENT agrees that such documentation from VioView™ FTS is a fair and accurate basis for the calculation of the fees due under this Agreement and such documentation shall be relevant and material in any dispute between the parties with respect to fees due hereunder. OPTOTRAFFIC and CLIENT will have access to VioView™ FTS reports. OPTOTRAFFIC will use these reports to calculate fees due to OPTOTRAFFIC.
- 7. Distribution of Funds.** As an administrative convenience to the CLIENT and to ensure accurate and complete tracking of program funds, OPTOTRAFFIC will establish, at no additional cost to the CLIENT, a bank account with lockbox service ("Lockbox Account") for the purpose of accepting deposits of violation payments, including credit card payments and returned check processing costs. CLIENT approved violations are uniquely identified and within the Lockbox Account, CLIENT

violation payments are also uniquely identified and reconciled on a weekly basis. Furthermore, on a monthly basis, on Friday, or the following business day in the event that Friday falls on a bank holiday, commencing the week following the first payment receipt, CLIENT expressly authorizes OPTOTRAFFIC to distribute to CLIENT funds deposited net of the Fees set forth in Schedule A, and distribute the remainder of the funds to OPTOTRAFFIC for services provided. OPTOTRAFFIC, at no additional cost to CLIENT, agrees to maintain such bank account for a minimum of 12 months after the date of termination of this Agreement.

8. Confidentiality. CLIENT and OPTOTRAFFIC agree not to disclose information related to performance of the Services under this Agreement to anyone except as required by law or by mutual agreement.

9. Term, Commencement of Service, and Termination.

- a) Term. This agreement shall start on the Effective Date and remain in effect for a period of three (3) years (“Initial Term”). On each anniversary date thereafter, this Agreement will automatically renew for a one-year period upon the same terms and conditions (“Renewal Term”). If either CLIENT or OPTOTRAFFIC elects not to renew, it must notify the other party in writing of its intention not to renew this Agreement at least ninety (90) days prior to any such anniversary date, in which case this Agreement shall terminate on such anniversary date.
- b) Commencement of Service. OPTOTRAFFIC and CLIENT shall make reasonable efforts to enable commencement of services as soon as practicable upon the Effective Date of this Agreement.
- c) Termination for Default. Either party shall be entitled to terminate this Agreement in the event of a failure by the other party to perform any of its material obligations under this Agreement if such breach is not cured within thirty (30) days after receipt of notice thereof from the non-defaulting party or within ten (10) days after receipt of such notice if such breach relates to the non-payment of Fees or other amounts owed hereunder or a breach by CLIENT which materially compromises the security of the Services or Confidential Information.
- d) Termination by CLIENT for Convenience. Notwithstanding subsection (a) above, CLIENT may terminate this Agreement for Convenience upon sixty (60) days prior written notice to OPTOTRAFFIC and declare the effective date of such termination. If the CLIENT terminates this Agreement for convenience at any time within the Initial Term, then CLIENT must pay OPTOTRAFFIC a fee in the amount of \$1,500 per month per Monitoring System for each month that remains in the Initial Term. The parties shall reconcile amounts owed and/or to which each is entitled under this Agreement up to the date of termination of this Agreement and any subsequent Initial or Renewal Term runoff, if applicable.
- e) Effect of Termination. In the event of any termination of this Agreement, CLIENT will suspend operations of the Monitoring System and return to OPTOTRAFFIC such Monitoring System upon providing or receiving a notice of termination. CLIENT will return to OPTOTRAFFIC within thirty (30) working days of the termination date all manuals, documentation and all other property and materials of OPTOTRAFFIC provided to CLIENT

hereunder. Upon the return of all such property and materials to OPTOTRAFFIC, and providing that there are no outstanding invoices, OPTOTRAFFIC will provide CLIENT with all of the Event Records, defined in Section 18 below, pertaining to CLIENT in OPTOTRAFFIC'S possession, such Event Records to be provided to CLIENT in Portable Document Format, at no cost to CLIENT. OPTOTRAFFIC and CLIENT for a minimum of 12 months after the termination date will continue the collection and distribution of revenue in accordance to this Agreement. Furthermore, for a minimum of 12 months OPTOTRAFFIC may continue to operate with any third party with whom the CLIENT contracts to provide debt collections services in connection with their collection efforts relating to any citations.

- f) Suspension of Monitoring Operations. The CLIENT and OPTOTRAFFIC reserve the right to suspend immediately any and all traffic monitoring operations if continuation of such operations creates an unsafe condition. Upon notification from OPTOTRAFFIC or the CLIENT, in writing, OPTOTRAFFIC and CLIENT will suspend such operations until the parties agree to and resolve the condition(s) that led to the suspension. OPTOTRAFFIC shall be obligated to continue the processing of Recorded Events prior to the notice of suspension or termination of monitoring operations, and receive payment for, all citations issued based upon such Recorded Events.
- g) Survival of Certain Terms. The provisions of Sections 6, 8, 12, and 16 shall survive any suspension or revocation or termination of this Agreement. No termination of this Agreement by either party for any reason shall serve to cancel, waive or otherwise affect any fees due to OPTOTRAFFIC or CLIENT hereunder resulting from Recorded Events having accrued on or before the effective date of any such termination.

10. Representations and Warranties.

- a) CLIENT represents and warrants that:
 - i. CLIENT is a tax-exempt entity under the rules of the Internal Revenue Service and will provide OPTOTRAFFIC with a copy of its tax exempt status upon request;
 - ii. CLIENT will comply with all applicable laws, rules and regulations in the use of the Services and in the performance of its obligations under and in connection with this Agreement, including, but not limited to, the receipt and use of DOR information and the authorization and issuance of citations.
- b) OPTOTRAFFIC represents and warrants that it will perform the Services with care, skill, and diligence, in a commercially reasonable and professional manner, and shall be responsible for the professional quality and technical accuracy of the Services furnished under this Agreement. OPTOTRAFFIC shall comply with all applicable laws, rules and regulations fulfilling OPTOTRAFFIC'S obligations under this Agreement.
- c) OPTOTRAFFIC owns and has the right to use, and make available for use by CLIENT, **VioView™**, **VioView™ FTS** and any similar software for the purposes of providing Services under this Agreement, and that such use will not violate or infringe upon the title or rights of use of such software by others.
- d) **No other Warranties. EXCEPT AS EXPRESSLY PROVIDED ABOVE, OPTOTRAFFIC MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY**

WARRANTY CONCERNING MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY WARRANTY REGARDING THE PRODUCTIVITY OF THE SYSTEM OF OPTOTRAFFIC.

11. Insurance and Limitation of Liability. OPTOTRAFFIC shall purchase and maintain during the entire term of this Agreement, comprehensive general liability insurance and workers' compensation insurance with limits of not less than those set forth below.

- a) Comprehensive General Liability Insurance. Personal injury liability insurance with a limit of \$1,000,000 each occurrence/\$2,000,000 aggregate; Property damage liability insurance with limits of \$500,000 each occurrence/\$1,000,000 aggregate. All insurance shall include completed operations and contractual liability coverage.
- b) Automobile Liability Coverage. Automobile fleet insurance \$1,000,000 for each occurrence/aggregate; property damage \$500,000 for each occurrence/aggregate.
- c) Workers' Compensation Insurance. OPTOTRAFFIC shall comply with the requirements and benefits established by the State of Georgia for the provision of Workers' Compensation Insurance. OPTOTRAFFIC shall provide workers' compensation insurance meeting the statutory limits for Georgia and Employers' Liability limits of \$500,000. All corporations are required to provide Workers' Compensation Certificates of Insurance.

OPTOTRAFFIC covenants to maintain insurance, in these amounts, which will insure all activities undertaken by OPTOTRAFFIC on behalf of the CLIENT under this Agreement. OPTOTRAFFIC shall provide to the CLIENT not less than 30 days prior written notice of any cancellation, reduction or other material change in the insurance provided under this Paragraph 11. CLIENT shall be named as a certificate holder and additional insured on the insurance maintained pursuant to Paragraphs 11.a) and 11.b). Upon commencement of this Agreement, and thereafter as requested by CLIENT, OPTOTRAFFIC shall provide CLIENT with a certificate or certificates evidencing the coverages required by this Paragraph 11.

OPTOTRAFFIC'S MAXIMUM CUMULATIVE LIABILITY TO CLIENT, IN EXCESS OF INSURANCE COVERAGE PROVIDED UNDER THIS PARAGRAPH 11, ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF THE TOTAL FEES PAID TO OPTOTRAFFIC BY CLIENT HEREUNDER.

12. Indemnification. OPTOTRAFFIC shall hold CLIENT harmless from any liability arising from OPTOTRAFFIC'S performance of this Agreement and CLIENT shall hold OPTOTRAFFIC harmless from any liability arising from CLIENT'S performance of this Agreement. This paragraph does not affect the obligations of CLIENT under Distribution of Funds in Paragraph 7.

13. Compliance with Laws. OPTOTRAFFIC and CLIENT each agree to comply with all applicable laws governing this Agreement and the performance of its terms, including laws governing the confidentiality of information. OPTOTRAFFIC and CLIENT further agree that, unless authorized by CLIENT, the information provided by CLIENT and/or the DOR, including the names and addresses and associated information of persons and entities that have received a citations, shall remain confidential except as required by law, and shall not be sold or shared with any other non-party, company or entity for any purpose, including but not limited to marketing, sales, and/or solicitations.

- 14. Force Majeure.** OPTOTRAFFIC shall not be liable for any delays or failures in the system of OPTOTRAFFIC or otherwise in the performance of the Services, which delays, or failures are directly or indirectly caused by vandalism, flood, storm, lightning, earthquake, tornado, other Acts of God, or war, riot, sabotage, strike, utility outage or other factors or circumstances beyond OPTOTRAFFIC'S reasonable control.
- 15. Independent Contractors.** With respect to each other, OPTOTRAFFIC and CLIENT are independent contractors, and neither party, nor their respective officers, agents, employees, shall be deemed to be employees by the other party for any purpose. Further, OPTOTRAFFIC and CLIENT shall not be deemed to be partners, agents, joint ventures, or anything other than independent contractors.
- 16. Governing Law.** This Agreement and the rights and obligations of the parties and their successors and assigns hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Georgia without regard to its choice and/or conflict of laws provisions. Any legal action resulting from, arising under, out of or in connection with, directly or indirectly, this Agreement shall be commenced exclusively in the state or federal courts in the State of Georgia. All parties to this Agreement hereby submit themselves to the jurisdiction of any such court and agree that service of process on them in any such action, suit or proceeding may be affected by the means by which notices are to be given under this Agreement. In the event of litigation by a party hereto to enforce its rights hereunder, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and disbursements.
- 17. Notices.** All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed, express, certified or registered mail, return receipt requested, with postage prepaid, or sent priority next day delivery by a nationally recognized overnight courier service that regularly maintains records of items picked up and delivered to the parties at the addresses first set forth above or to such other person or address as a party shall notify the other in writing. Notices delivered personal shall be deemed communicated as of the date of actual receipt, mailed notices shall be deemed communicated as of the date three (3) business days after mailing, and notices sent by courier shall be deemed communicated as of the date two (2) business days after pick-up.
- 18. Retention of Records by OPTOTRAFFIC.** OPTOTRAFFIC will store recorded images associated with issued citations and related citation information ("Event Records") developed for CLIENT in the course of providing Services under this Agreement in accordance with the following rules:
- a) OPTOTRAFFIC will store Event Records for a minimum of 24 months from the Event date.
 - b) OPTOTRAFFIC will store Event Records for paid citations in Portable Document Format (PDF).
 - c) After 24 months from the Recorded Event date, OPTOTRAFFIC will delete Event Records.

In the event that CLIENT desires to retain any such Event Records beyond 24 months, OPTOTRAFFIC will provide CLIENT with such Event Records in OPTOTRAFFIC'S possession, provided that OPTOTRAFFIC receives at least thirty (30) days prior written notice. OPTOTRAFFIC will provide such Event Records to CLIENT and CLIENT will compensate OPTOTRAFFIC for,

materials, shipping expenses, travel expenses if required, and labor costs at OPTOTRAFFIC'S then-current hourly rate.

OPTOTRAFFIC is neither a government agency nor a private entity to which an agency has transferred public records for storage, nor a custodian of a 'public record' as defined in OCGA Section 50-18-70, *et seq.* and 50-18-91; and is not an authorized entity that has physical custody or control of a public record. CLIENT has not hired OPTOTRAFFIC, nor does OPTOTRAFFIC serve, in any capacity as a custodian of CLIENTS' records, including but not limited to any records identified herein including those in Section 18.

- 19. Entire Agreement.** This Agreement contains the entire agreement between the parties as to the subject matter herein and supersedes and replaces all prior contemporaneous agreements, oral and written, between the parties hereto. This Agreement may be modified only by a written instrument signed by both parties.
- 20. Counterparts.** This Agreement may be executed in counterparts of each which shall be deemed an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile shall be equally as effective as delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have affixed their signatures below:

OPTOTRAFFIC, LLC

THE CITY OF HAPEVILLE, GA

BY: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE A
TO THE SERVICE AGREEMENT BY AND BETWEEN
THE CITY OF HAPEVILLE, GEORGIA
AND
OPTOTRAFFIC, LLC

1. **Service Location:** School zone enforcement locations as directed by CLIENT.

2. **Fee due to OPTOTRAFFIC:** For the provisioning, deployment, maintenance & service of each Monitoring System, along with our full suite of back office processing services such as printing, mailing, web and lockbox payment processing, court docket preparation and adjudication, registration holds, call center etc. CLIENT shall pay OPTOTRAFFIC:

\$25.00 Fixed Fee per Paid Citation

3. **Fee due to Optottraffic:** For processing and administrative support, data transfer etc. involved with a 3rd party Collection Agency program for unpaid citations, CLIENT shall pay OPTOTRAFFIC:

\$10.00 Fixed Fee per Citation Paid through a Collection Agency