

VI. Term. The term of the SaaS or services shall commence upon the full execution of the NPA SaaS Agreement and shall continue for the period of time set forth in the NPA (the "Subscription Term").

VII. Termination. In the event of a Customer breach of this NPA SaaS Agreement NTI shall have the right to suspend or terminate, at its discretion, this NPA SaaS Agreement and all related corresponding services should such breach not be cured within thirty (30) calendar days from the date of dispatch of NTI's written notice ("Notice"); provided, however, if Customer breaches or otherwise fails to perform any monetary or financial promise, condition, or covenant, then such Customer must cure within ten (10) calendar days from date of such Notice. The NTI Notice shall specify the details supporting the breach of the NPA SaaS Agreement. NTI retains and reserves the right, within NTI Discretion, to immediately suspend Customer's password, account, and access to or use of the SaaS during such ten (10) or thirty (30) day cure period as applicable. NTI's Customer suspension does not excuse or relieve Customer's obligation to timely remit all monetary obligations and payments per the NPA SaaS Agreement, plus related taxes and expenses. Customer recognizes that upon any termination pursuant to this Section VII, such action shall also result in the termination, as the case may be, of Customer's right to access and use the SaaS and the services specified in the NPA SaaS Agreement, including the NTI SaaS Materials. In the event Customer timely remits all monetary obligations due and owing to NTI, NTI may, within NTI's Discretion, allow Customer to access the SaaS solely to the extent necessary for Customer to retrieve Customer Data ("Customer Data") file(s) in NTI's possession or control. This SaaS Agreement may be terminated earlier by NTI in its entirety without liability of a Customer breach or default per the terms of this Section VII as follows: (a) any monetary breach or monetary/financial non-compliance per this Section VII; (b) immediately upon notice of commencement of any insolvency, bankruptcy or similar proceeding by or against the Customer including an assignment for the benefit of creditors, the appointment of a receiver over assets, an attachment of assets lasting more than thirty (30) calendar days; (c) Customer ceases to conduct its business; operations in the ordinary course of business; or (d) as otherwise provided elsewhere in this NPA SaaS Agreement.

VIII. Customer Data/Retention Customer agrees that NTI is under no obligation or duty, expressed, implied, or otherwise, to retain Customer Data, and that Customer Data may be irretrievably deleted by NTI after the expiration of any applicable termination period per Section VII above.

IX. Survival. The following provisions are agreed to survive any termination of this SaaS Agreement: Sections III, V, VII, VIII, X, XII, XIII, XIV, XV, and XVI.

X. Third Party Web Sites.

If Customer enters into correspondence with, accesses the website content of, purchase goods or services from, or participates in promotions of advertisers, sponsors or any party other than NTI, through the SaaS or through any software program used in conjunction with the SaaS, such activity, and any terms, conditions, warranties or representations associated with such activity, is conducted solely at Customer's election and assumed risk; and thus is governed solely by the terms between Customer and the applicable third party. Customer should refer to the policies posted by third-party websites regarding privacy and other topics prior to Customer accessing or using any such websites. NTI has no liability or obligation whatsoever in connection with and does not endorse or accept any responsibility for the contents or use of third party web sites or any transactions completed with third parties. NTI may provide such links and/or access to third-party website content only and solely as a convenience and accommodation, and the inclusion of any link or provision of access does not imply, suggest, associate, impute, endorse or ratify by or to NTI of the linked or otherwise accessible web site(s), notwithstanding the inclusion on such site of the NTI trademarks or its Third Party Providers.

XI. Customer Care Services / Software Maintenance / Training.

- (a) Customer Care. As part of SaaS, NTI will provide Customer with Customer Care Services under NTI's policies then currently in effect. NTI retains and reserves the right to modify or cease such policies at any time in NTI's Discretion; provided, however, any such modification will not materially reduce the level of Customer Care then currently provided to Customer for the period for which Customer has paid for such services or for twelve (12) months from execution of the NPA, whichever is greater. .

(b) Required Training. As soon as agreed between NTI and Customer, NTI will provide training in the basic day-to-day operation and maintenance of the Software and Products to the Customer on the terms and conditions described in this Paragraph XI and the NPA. NTI shall formulate the training curriculum and provide the training at Customer's facilities. Customer shall be responsible for making available facilities and equipment sufficient, in NTI's reasonable determination, for the training.

- (i) Customer is responsible to provide its designated: "Corporate System Administrator" who shall be responsible for supervising the transition and operation of the Products (including database maintenance and establishment of backup procedures); and

Other employees who will be operating the Product on a regular basis (the "Operators").

- (ii) Customer is responsible for selecting employees who are qualified to operate the NTI Software and/or Products on Customer's equipment. NTI reserves the right to refuse assistance and to charge additional fees if a Customer Employee seeks assistance on basic background information or any other matters not directly related to the operation of the NTI Software and/or Product or the training to be provided pursuant to this Article XI.

(c) Optional "On-Site" Training. At Customer's request NTI agrees to provide additional training to Customer Employees at such additional charges and fees as determined by NTI and agreed to by Customer (**\$1,500 per day**).

Optional Services Cost Structure Breakdown

Cost Items		Employee (Unit)	Unit Price	Customer	
a. Training	a. Employee User (Train the Trainer)	Based on Actual Chargeable Hours Per Event	\$175/Hr	N/A	
	b. System User (Supervisors)		\$175/Hr	N/A	
	c. System User (Administrators)		\$175/Hr	N/A	
	d. Support Technician		\$175/Hr	N/A	
	e. Sales		\$175/Hr	N/A	
b. Implementation			\$175/Hr	N/A	
c. On-Going Support			\$175/Hr	N/A	
d. Others			Escalation, Support and PS Model		
			Service Total :	Included	

***NOTE*:** the City's implementation costs were agreed upon as a one-time fixed fee (\$28,920.00). Only **on-site training/implementation (\$1,500.0 per day) request** and/or future customizations outside of the scope of the current project, shall require additional implementation costs.

XII. Representations, Warranties & Exclusive Remedy.

Each party represents and warrants that it has the power and authority to enter into the NPA SaaS Agreement and all attached or referenced Schedules, Addendums, and Exhibits. NTI warrants that: (i) the SaaS will perform substantially in accordance with its online documentation under normal use and (ii) the NTI Services (or Products) will be provided in a manner consistent with generally accepted industry standards. Customer must notify NTI of any warranty deficiencies within 5 calendar days from date of the NTI performance/non-performance of the relevant SaaS and/or Services in order to receive any applicable warranty remedies. For any breach of the expressed warranties set forth in clauses (i) and (ii) hereof, Customer's exclusive and only remedy shall be the NTI re-performance or correction of the warranty item (SaaS and/or Services), as applicable, and if NTI is unable to re-perform or correct such warranty item, then Customer is entitled to recover that portion of the unused fees paid to NTI for the warranty item, and such refund shall reflect NTI's entire liability and Customer's entire right and remedy to any and all rights, remedies, and recovery whatsoever.

XIII. Disclaimer of Warranties.

- (a) Warranty Limitations. EXCEPT AS OTHERWISE SPECIFICALLY STATED HEREIN, NTI DOES NOT MAKE ANY WARRANTIES OF ANY KIND, WHETHER EXPRESSED, IMPLIED, STATUTORY, OR OTHERWISE, AND NTI SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
- (b) NTI Disclaimer. EXCEPT FOR THE EXPRESSED WARRANTIES SET FORTH IN THIS NPA SaaS AGREEMENT, NTI DISCLAIMS ALL EXPRESSED AND IMPLIED REPRESENTATIONS, WARRANTIES, GUARANTIES, AND CONDITIONS WITH REGARD TO THE SaaS MATERIALS, THE NOVATIME SaaS MATERIALS, THE SOFTWARE, AND THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED REPRESENTATIONS, WARRANTIES, GUARANTIES, AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE NON-INFRINGEMENT, AND QUALITY OF SERVICE. NTI MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, REGARDING THE RELIABILITY, AVAILABILITY, CONTINUITY TIMELINESS, QUALITY, SUITABILITY, ACCURACY OR COMPLETENESS OF THE SaaS, THE NOVATIME SaaS MATERIALS, THE SERVICES, THE SOFTWARE, AND NTI PRODUCTS, OR THE RESULTS CUSTOMER MAY OBTAIN, EXPERIENCE, OR RECEIVE BY USING THE SaaS, THE NOVATIME SaaS MATERIALS, THE SOFTWARE, OR THE SERVICES.
- (c) Specific Disclosure of Nonresponsibility. WITHOUT LIMITING THE GENERALITY OF ANY OF THE FOREGOING IN THE IMMEDIATELY PRECEDING PARAGRAPHS OF XIII, NTI DOES NOT REPRESENT OR WARRANT THAT: (i) THE OPERATION OR USE OF THE SaaS, THE SOFTWARE, OR NOVATIME SaaS MATERIALS WILL BE TIMELY, SECURE, UNINTERRUPTED OR ERROR-FREE OR (ii) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIALS ACQUIRED OR LICENSED FROM NTI WILL MEET OR SATISFY CUSTOMER REQUIREMENTS OBTAINED THROUGH SaaS. CUSTOMER ACKNOWLEDGES THAT NTI DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATION FACILITIES, INCLUDING, WITHOUT LIMITATION, THE INTERNET, AND THAT THE SaaS AND NOVATIME SaaS MATERIALS MAY BE SUBJECT TO LIMITATIONS, DELAYS, INTERRUPTIONS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH ELECTRONIC, OTHER TECHNOLOGY, OR OTHER MODE OF COMMUNICATIONS FACILITIES. NTI IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR ANY DAMAGES, LOSSES, INJURIES, HARM, COSTS, AND/OR EXPENSES (COLLECTIVELY "Damages") RESULTING FROM ANY PROBLEMS, INTERRUPTIONS, INTERFERENCES, DEFICIENCIES, DEFECTS, OR NTI OBLIGATIONS. EXCEPT WHERE EXPRESSLY PROVIDED OTHERWISE BY NTI, THE SaaS, THE SERVICES, THE SOFTWARE, AND THE NOVATIME SaaS MATERIALS ARE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS.

XIV. Limitation of Liability.

- (a) Exclusions of Consequential and Related Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR FOR ANY DAMAGES FOR LOSS OF: (i) DATA, (ii) REVENUE, (iii) PROFITS, (iv) LOSS OF PROFITS OR REVENUE, (v) USE OR OTHER ECONOMIC ADVANTAGE OF WHATEVER KIND OR NATURE WHATSOEVER ARISING IN CONTRACT OR TORT THEORY OF RECOVERY OR OTHERWISE (EXCLUDING FEES AND MONETARY OBLIGATIONS UNDER THE AGREEMENT), ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE NPA SaaS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE USE OR INABILITY TO USE THE SaaS OR ANY SaaS MATERIALS, REGARDLESS OF CAUSE, WHETHER IN AN ACTION IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE.
- (b) Liability Limitations. NEITHER PARTY'S LIABILITY, AND CORRESPONDING DAMAGES, WITH RESPECT TO ANY SINGLE, MULTIPLE, OR SERIES OF INCIDENTS ARISING OUT OF OR RELATING TO THIS NPA SaaS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE TOTAL AGGREGATE DOLLARS ACTUALLY PAID BY CUSTOMER TO NTI FOR THE SaaS, NOVATIME SaaS MATERIALS AND PRODUCT SERVICES UNDER THE NPA SaaS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT OR CAUSE GIVING RISE TO SUCH CLAIM FOR DAMAGES; AND IF SUCH LIABILITY RESULTS FROM CUSTOMER USE OF A PARTICULAR PORTION OF THE SaaS, NOVATIME SaaS MATERIALS, OR NTI PRODUCT/SERVICES UNDER THE NPA SaaS AGREEMENT, SUCH LIABILITY SHALL BE LIMITED TO THE FEES PAID BY CUSTOMER TO NTI FOR THE DEFICIENT OR SHORTFALL PORTION OF THE SaaS, NOVATIME SaaS MATERIALS, AND/OR PRODUCT/SERVICES GIVING RISE TO THE LIABILITY. THE LIMITATION OF EITHER PARTY'S LIABILITY SET FORTH IN THE PRIOR SENTENCE SHALL NOT APPLY TO THE INDEMNITY OBLIGATIONS PER SECTION XV HEREOF OR ELSEWHERE IN THE NPA SaaS AGREEMENT.
- (c) Allocation of Risk. This limitation of liability allocates the risks under this NPA SaaS Agreement between the parties. NTI's pricing reflects this allocation of risk and the limitation of liability specified in this Section. NTI shall not be liable for any loss resulting from a cause over which NTI does not have direct control, including, but not limited to, failure of electronic or mechanical equipment or communication lines; telephone or other interconnect problems; bugs, errors, configuration problems or incompatibility of computer hardware or software; failure or unavailability of Internet access; problems with Internet service providers or other equipment or services relating to Customer's computer; problems with intermediate computer or communications networks or facilities; problems with data transmission facilities, telephone or telephone service; or unauthorized access, theft, operator errors, severe weather, earthquakes or labor disputes. Licensor is not responsible for any damage to Customer's computer, software, modem, telephone or other property resulting from Customer's use of the Licensed Program.
- (d) Exclusive Remedies. CUSTOMER'S SOLE REMEDY WITH RESPECT TO ANY NTI LIABILITY OF ANY KIND WHATSOEVER INCLUDING, WITHOUT LIMITATION, BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR ANY SUCH OTHER LEGAL THEORY OR CAUSE OF ACTION UPON WHICH ANY CUSTOMER RELIEF MAY BE SOUGHT OR REQUESTED ARISING FROM, RELATING TO, OR IN CONNECTION WITH THE SaaS AGREEMENT, AND ANY SCHEDULES, ADDENDUMS, AND EXHIBITS ATTACHED THERETO OR REFERENCED THEREIN AND/OR WITH RESPECT TO THE PRODUCTS, MATERIALS, AND/OR SERVICES SOLD, DELIVERED, ACQUIRED, OR PROVIDED HEREUNDER IS LIMITED TO THE REMEDIES, RELIEF, AND SCOPE OF RECOVERY PROVIDED IN THIS NPA SaaS AGREEMENT.
- (e) Time Limitation. To the extent Customer seeks to assert or file a claim for relief against NTI, such action or proceeding must be commenced no later than one (1) year from the date of NTI's breach or failure to perform. This time period is inclusive of any other time period (statutory or otherwise) that Customer may otherwise be provided or has available and thus is agreed to be the sole and only time period in which to bring any such action.

XV. Indemnity.

- (a) NTI Indemnification. If a third party makes a claim (“Third Party Claim”) against either Customer or NTI (“Recipient”, which may refer to Customer or NTI depending upon which party received the Third Party Claim) that any information, design, specification, instruction, software, data, or material (collectively “Third Party Material”) furnished by either Customer or NTI (“Provider”, which may refer to Customer or NTI depending on which party provided the Material) and used by the Recipient infringes such Third Party’s legally recognized intellectual property rights (Third Party Material) the Provider, at its sole cost and expense, shall defend the Recipient against the Third Party Claim, and indemnify and defend the Recipient from the damages, liabilities, costs and expenses, including any reasonable attorney’s fees (collectively “Third Party Damages”) awarded by a court of competent jurisdiction to the Third Party claiming infringement or any settlement agreed to by the Provider, if the Recipient does the following:
- (i) notifies the Provider promptly in writing, not later than five (5) business days after the Recipient receives notice of the Third Party Claim (or sooner if required by applicable law);
 - (ii) allows the Provider sole control of the defense and any settlement negotiations; and
 - (iii) allows and/or provides to the Provider the information, cooperation, authority, input, participation and assistance as needed or requested the Provider to effectively defend against or settle the Third Party Claim.

If the Provider believes or it is determined that any of the Third Party Material may have violated a Third Party’s legitimate legally recognized intellectual property rights, the Provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use; provided, however, if such alternatives are not commercially reasonable or if the Third Party is unwilling to agree to fair and reasonable terms to grant a license to Provider, the Provider may, without liability of any kind or amount whatsoever, terminate the NPA SaaS Agreement or license for, and require return of, the applicable Third Party Material and refund any unused, prepaid fees the Recipient may have paid for such Material. If Customer is the Provider and such return materially affects NTI’s ability to meet its obligations the NPA SaaS Agreement then NTI may, at its option and upon 30 calendar days advance written notice, terminate without liability of any kind or amount whatsoever the NPA SaaS Agreement. Provider will not and is under no obligation to indemnify the Recipient if the Recipient alters or uses the Third Party Material outside the reasonable scope of use identified in the Provider’s user documentation or if the Recipient uses a version of the Materials which has been replaced or superseded if the infringement claim could have been avoided by using an unaltered current version of the Third Party Material which was provided to the Recipient. The Provider will not and is under no obligation to indemnify the Recipient to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by Provider. NTI will not and is under no obligation to indemnify Customer to the extent that an infringement claim is based upon the combination of any Third Party Material with any products or services not provided by NTI. NTI shall not and is under no obligation to indemnify Customer for infringement caused by Customer actions against any third party if the Materials as delivered to Customer and used in accordance with the terms of the SaaS Agreement would not otherwise infringe upon any third party intellectual property rights. This Section provides for the parties’ exclusive and only remedy for any infringement claims, damages, and indemnification.

- (b) Customer Indemnification. Customer covenants, agrees to, and shall defend, protect, and indemnify NTI from and against any claims, demands, suits, or proceedings made or brought against NTI by: (i) a third party alleging that Customer’s data or the use of NTI’s Services or Products in breach of this NPA SaaS Agreement infringes or misappropriates the intellectual property rights of a third party or violates applicable law; (ii) reason of Customer’s breach of this NPA SaaS Agreement and a third party alleging liability and damages relating to or arising from Customer’s breach of this NPA SaaS Agreement; (iii) a third party alleging Customer’s breach or non-compliance under Section (v) of this NPA SaaS Agreement; and (iv) a third party claiming liability and damages arising from or relating to Customer’s use of the NTI SaaS Materials, Services, or Products, or Customer’s use or performances arising from or relating to this NPA SaaS Agreement. Customer covenants, agrees to, and shall indemnify and protect NTI for and from any damages, injuries, losses, expenses, fees, attorney’s fees, and costs awarded against NTI as a result of, or for any amounts paid by NTI under a court approved settlement of a claim, action, or suit against NTI; provided that NTI: (x) promptly notifies Customer of the claim, suit, or action; (y) allows Customer principal control of the defense and settlement of said claim, suit, or action (provided further, however, Customer is not authorized to settle

any such claim, suit, or action unless such settlement and resolution unconditionally and forever releases NTI of all liabilities); and (z) provide Customer reasonable assistance, at Customer's expense, in responding and defending such claim, suit, or action.

- (c) Exclusive Remedy. This Section XV provides the indemnifying party's sole liability to and the indemnified party's exclusive remedy against the other party for any type of claim described in this Section XV other than enforcement and/or breach of this Section XV.

XVI. Confidential Information.

- (a) Each party may have access to the other party's confidential, private, and non-published information ("Confidential Information"). Confidential Information shall include, without limitation:
- (b) As used herein, "Confidential Information" mean all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information shall include each party's data; NTI Services/Products, including without limitation, software and programs, SaaS, SaaS Materials;

Any information that is clearly identified in writing at the time of disclosure as confidential. A party's Confidential Information shall not include information that: (i) is, becomes a part of, or is accessible through lawful means through the public (i.e. no longer non-public) through no act or omission of the other party wrongfully or otherwise; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (iv) is independently innovated or developed by the other party without reference, use, or benefit (directly or indirectly) to the other party's Confidential Information.

- (c) The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care).
- (d) No Confidential Information of the Disclosing Party for any purpose shall be used or made accessible outside the scope of this NPA SaaS Agreement and except as otherwise authorized by the Disclosing Party in writing, Confidential Information of the Disclosing Party shall be limited as set forth herein.
- (e) Neither party shall disclose the terms of this NPA SaaS Agreement, SOW, or any order form to any Third Party other than its affiliates and their legal counsel and accountants without the other party's prior written consent. The parties agree to use due care and prudence to prevent disclosure and unauthorized access of the other party's Confidential Information to any third party; the parties agree to hold each other's Confidential Information in confidence and in violate for a period of three (3) years from the date of disclosure. Notwithstanding any of the foregoing in this paragraph, Customer agrees that: (x) nothing shall prevent either party from disclosing the terms or pricing under the SaaS Agreement in any legal proceeding arising from or in connection with the SaaS Agreement or disclosing the information to a federal or state governmental entity as required by law; (y) NTI may disclose Customer Confidential Information to its Third Party Providers to the extent necessary to provide products or services under the NPA SaaS Agreement, provided, however, NTI has a non-disclosure agreement in place with such Third Party Provider that protects such Confidential Information against disclosure in a manner no less protective than the SaaS Agreement; and (z) NTI's obligations regarding personally identifiable information and other information concerning Customer and Customer Employees shall be governed by the terms of the then-current NTI Privacy Policy. Further, NTI may identify Customer on its NTI Workforce Management NOVAtime SaaS customer lists and in its marketing and advertising materials, as well as announce that Customer is a customer of the SaaS, and reproduce Customer company name, logo, trademark, trade name, service mark, or other commercial designations in connection therewith. This Section XVI constitutes the entire understanding of the parties and supersedes all prior or contemporaneous agreements, representations or negotiations, whether oral or written, with respect to Confidential Information, provided, however, NTI retains and reserves the right and Customer agrees that NTI may enlarge or expand the aspects



of the covenants regarding Confidential Information, including without limitation, preparing and for Customer to execute a separate NDA/Confidentiality Agreement

XVII. Customer Responsibilities.

In addition to Customer's obligations per the NPA (e.g. Phase 3, Paragraph 2), Customer must: (i) ensure that any use of the SaaS and Services by Customer and Customer Employees is in accordance with the terms and conditions of the NPA SaaS Agreement and (ii) obtain all required consents for NTI and its agents and contractors to perform the SaaS and Services under the NPA SaaS Agreement. Customer is responsible for: (x) ensuring that Customer network and systems are compatible and comply with NTI specifications and hardware and (y) any breach by any Customer Employee of such terms and conditions per this SaaS Agreement.

NTI is not responsible for Customer network connections, or for conditions, problems, difficulties, adaptation, or such other matters relating to or necessitating increased costs or the Customer incurring additional expenses arising from or relating to Customer network connections (e.g., bandwidth issues, excessive latency, network or interruption outages), or interferences caused by the internet.

Prior to the delivery of NTI SaaS Materials, Software, equipment, Hardware, and/or Products, Customer must prepare its site(s) and receiving equipment and hardware in accordance with NTI specifications. This includes adequate space and facilitation for maintenance personnel, proper ventilation, normal temperature and humidity tolerance (per NTI specifications), and proper electrical power consisting of a dedicated three wire circuit, with isolated ground, for each unit or group of units and a properly configured IBM® or compatible PC equipped with a "fast" Internet connection. Customer shall complete, sign and submit NTI parameter, site, and environmental surveys detailing Customer's time and attendance and job labor costing data collection rules and policies, the installation site(s), and the system environment prior to the start of system installation. For all hardware terminals, a dedicated surge protector, or equivalent protection, is required to protect terminals against power-related surge disruption issues.

XVIII. Notices.

Customer agrees NTI may give notice applicable to NTI's SaaS customer base by means of a general notice and notices specific to Customer by electronic mail to Customer e-mail address on record in NTI's account information or by written communication sent by first class mail or pre-paid post to Customer address on record in NTI's account information. Any Customer dispute with NTI or Customer desired communication to provide a notice under the SaaS Agreement, or if Customer becomes subject to insolvency or other similar legal proceedings, Customer will promptly send written notice to the address listed below.

Any notice required or desired to be given under this SaaS Agreement shall be deemed given, if in writing and hand delivered or sent by United States certified mail, to the other party at the address shown for said party below:

To Customer: The City of North Little Rock

 120 Main Street
 North Little Rock, AR 72114

To NTI: NOVAtime Technology, Inc.:
 9860 Haven Ave
 Rancho Cucamonga, California 91730 Attention: Finance Director

Or to such other address or addresses as any party will have specified by notice in writing to the other party. Any notice provided in accordance with this Section XVIII also will be deemed to have been given: (i) as of the date personally delivered or transmitted by email or facsimile (but only if followed by transmittal by recognized overnight courier or hand delivery); (ii) on the third business day after the mailing thereof, or (iii) on the first business day after delivery by recognized overnight courier service.

XIX. Restrictions on Use.

Customer agrees not to use or allow the use of the SaaS or the Services, including uploading, emailing, posting, publishing or otherwise transmitting through any mode or medium any material, data or payment, for any purpose that may: (i) menace or harass any person or cause damage or injury to any person or property; (ii) involve the publication of any material that is false, defamatory, harassing or obscene; (iii) violate privacy rights or promote bigotry, racism, hatred or harm; (iv) constitute unsolicited bulk e-mail, "junk mail", "spam" or chain letters; (v) constitute an infringement of intellectual property or other proprietary rights; or (vi) otherwise violate applicable laws, statutes, ordinances or regulations. In addition to any other rights afforded under the NPA SaaS Agreement, NTI reserves the right to remove, suspend, or disable access to any material that violates the foregoing restrictions. NTI shall have no liability whatsoever to Customer/Customer Employee(s) in the event that NTI invokes such removal suspension or disability action. Customer agrees to defend and indemnify NTI against any and all claims arising out of a violation of Customer obligations under this Section XV and Section XIX.

XX. Verification.

At NTI's written request, and not more frequently than every six (6) months, Customer shall furnish NTI with a document signed by Customer's authorized representative verifying that the SaaS is being used pursuant to the provisions of this NPA SaaS Agreement. Customer agrees to promptly provide such information and documents reasonably requested by NTI with respect to Customer use of, and payment of fees for, the SaaS Products and Services. If the verification described in this Section reveals that Customer have underpaid fees to NTI, Customer shall promptly pay to NTI such fees at the prices set forth in the NPA. Customer is responsible for implementing reasonable means to monitor Customer compliance per the terms of the Agreement.

XXI. Export.

Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the SaaS, the Services, the NOVAtime SaaS Materials and any service deliverables. Customer agrees that such export control laws govern Customer's use of the SaaS, the Services, the NOVAtime SaaS Materials and any service deliverables (including technical data), and Customer agrees: (i) to comply with all export laws and regulations (including "deemed export" and "deemed re-export" regulations) and (ii) no data, information, software programs and/or materials resulting from services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws, including, without limitation, nuclear, chemical, or biological weapons proliferation, innovation or development of missile technology.

The Services, other technology NTI makes available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Customer shall not permit Customer Employees to access or use Services/Products in a U.S.-embargoed country (including, Iran, North Korea, Sudan, and Syria, and as such identified embargoed countries may be added or deleted by the United States) or in violation of any U.S. export law or regulation.

Customer has not received or offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of NTI's employees or agents in connection with this SaaS Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If customer learns of any violation of the above restriction, customer will use reasonable efforts to promptly notify NTI's legal department.

XXII. Force Majeure.

Except as to Customer's obligation to pay fees and costs per this NPA SaaS Agreement, neither party shall be responsible for any failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, technological, internet, or telecommunication outage or disruption that is not directly caused by or a result from the obligated party; force majeure; government moratoriums or restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party

(collectively “Force Majeure Event(s)”). Each party will use commercially reasonable efforts to mitigate the effect of a Force Majeure Event. Nonetheless, if such Force Majeure Event occurs and continues uninterrupted for more than thirty (30) consecutive or forty five (45) aggregate calendar days, either party may cancel unperformed services upon receipt of written notice from the other party. This Section does not excuse either party of its obligations to take reasonable steps to follow its normal disaster recovery procedures or Customer obligation to pay for the SaaS and/or Products purchased or acquired, or Services performed or provided up to the time of cancellation.

XXIII. Services Tools.

NTI may use tools, scripts, software, and utilities (collectively, the “Tools”) to review and administer the SaaS, and to assist Customer resolution NTI service requests. The Tools will not collect, report, or store any of Customer Data residing in the production SaaS, except as necessary to troubleshoot service requests or other problems or issues in the SaaS. Data collected by the Tools (excluding production data) may also be used to assist in managing NTI’s product and service portfolio and for license management.

XXIV. Statistical Information.

Customer authorizes NTI to, at its Discretion, compile statistical and performance information related to the SaaS or the Services, and may make such information publicly available, provided that such information does not incorporate Customer Data or identify Customer Confidential Information. NTI retains all intellectual property rights in such information.

XXV. General provisions.

- (a) Entire Agreement: This NPA SaaS Agreement, when fully executed, and all writings and documents attached, referenced, or otherwise identified in this NPA SaaS Agreement collectively contain the sole and entire agreement and understanding of the parties with respect to the entire subject matter hereof (the “NTI SaaS Agreement Documents”); and any and all prior and contemporaneous discussions, negotiations, commitments and understandings related hereto that are not otherwise contained and set forth in this NPA SaaS Agreement are understood to be of no legal force or effect, and the NTI SaaS Agreement Documents supersede any prior or contemporaneous, conflicting or additional communications and understandings.
- (b) Interpretation and Construction of Agreement: This SaaS NPA Agreement and any ambiguities or uncertainties contained herein are to be equally and fairly interpreted as to all parties and shall further be construed and interpreted without reference to the identity of the party or parties preparing or causing to be prepared this SaaS Agreement, it being expressly understood and agreed that each of the parties have participated equally in the negotiation and preparation of this SaaS Agreement and its terms, or had an equal opportunity to do so. The parties expressly and specifically waive the effects, benefits and interpretations of California Civil Code §1654 and any amended or successor statute thereto which, in whole or in part, provides that any ambiguities existing in the NPA SaaS Agreement shall be construed adverse and against the party who created or prepared such ambiguity
- (c) Non-Waiver and Time to Bring Action. The failure of either party to enforce any right or provision in the SaaS Agreement shall not constitute a waiver of such right or provision, or any other subsequent right or provision, unless agreed to by such party in writing. Except for actions for nonpayment or breach of NTI’s proprietary rights, no action, regardless of form, arising out of or relating to the NPA SaaS Agreement may be brought by either party more than two (2) years after the cause of action has accrued. Any rights not expressly granted herein are reserved by NTI.
- (d) Governing Law: Any action relating to or arising from the NPA SaaS Agreement will be governed by the laws of the State of Arkansas and controlling U.S. federal law. The Uniform Computer Information Transactions Act, the United Nations Convention on the International Sale of Goods, and choice of law rules of any jurisdiction, will not apply to the NPA SaaS Agreement. Any disputes, actions, claims or causes of action arising out of or in connection with this SaaS Agreement shall be subject to the exclusive jurisdiction of the State Courts of Arkansas.



(e) Jury Waiver, and Attorney's Fees: Each party hereby waives, to the extent permitted by law, any right to jury trial in connection with any action or litigation in any way arising out of or related to this NPA SaaS Agreement.

NTI

Customer

(f) Non-Modification: This NPA SaaS Agreement, and all of its terms and any collaterally related to or ancillary Agreements required or necessary to consummate the purpose, intent and/or spirit of this NPA SaaS Agreement *can only* be amended, changed, altered and/or modified by another agreement in writing signed by all parties hereto.

(g) Severability: In the event any provision of this SaaS Agreement shall be determined by a body or court of competent jurisdiction to be void, illegal, invalid, or unenforceable (collectively "Unenforceable") the remaining terms and provisions of this NPA SaaS Agreement shall not be effected thereby, and each of such remaining terms and provisions of this NPA SaaS Agreement shall remain valid and enforceable to the fullest extent permitted by law, unless a party hereto demonstrates by a preponderance of the evidence that the Unenforceable provision was an essential economic or a substantive and/or material term of this NPA SaaS Agreement.

(h) Binding Effect: This NPA SaaS Agreement and all of the terms, contained herein are binding upon and inure to the benefit of each of the undersigned parties hereto and their respective legal representatives (defined to include dependents, heirs, executors, administrators, and personal representatives) assigns and successors in interest.

(i) NTI/ Customer Relationship: No joint venture, partnership, joint employer, employment, or agency relationship exists between NTI and Customer as a result of this NPA SaaS Agreement. The parties are independent contractors. This NPA SaaS Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. There are no third party beneficiaries to this SaaS Agreement. Customer may not assign the NPA SaaS Agreement without the prior written approval of and subject to NTI Discretion. Any purported assignment in violation of this section is void. NTI reserves the right to provide some or all of the SaaS, NOVAtime SaaS Materials, Products or Services from locations, and/or through use of contractors, worldwide.

(j) Execution of Further Documents: The parties agree to and shall prepare and execute or cause to be prepared and executed such other documents, instruments, agreements and/or writings as are deemed necessary, required, convenient and/or reasonable for purposes of effecting and/or reaffirming the spirit and intent of this NPA SaaS Agreement and each and all of the terms contained herein.

(k) Execution by Facsimile/Electronic Transmission: The exchange of a fully executed NPA SaaS Agreement, and related documents as referenced herein or attached hereto by fax, PDF, or other electronic mediums shall be sufficient to bind each party to the terms and conditions of this NPA SaaS Agreement.

(l) Executed in Counterparts: This NPA SaaS Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which when fully executed by all parties and read together shall be deemed one and the same document. Execution by photocopy, PDF, or other electronic transmission, shall be deemed original signatures as if they were originally executed.

NOVATIME TECHNOLOGY, INC.

CUSTOMER:

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

Novatime Technology, Inc.
9680 Haven Avenue
Rancho Cucamonga, CA 91730
Jamie.Blundell@novatime.com
(909) 895-8137 Fax:(909) 475-4028



5 YEAR TOTAL COST

Invoice To: City of North Little Rock		Hosted By: Vendor	
Ship To: TBD		Terms: See Below	
Account Executive:	Jamie Blundell		
Qty	Description	Item	Total
	Novatime Web-Based Time & Attendance System		
	Year 1 Cost (Includes 12 Months Vendor Hosting & 1st Year Maintenance)	\$105,195	\$105,195
	Year 2 Cost (Annual Software Maintenance)	Included	Included
	Year 2 Cost (Annual Hardware Maintenance)	\$4,425	\$4,425
	Year 2 Vendor Hosting Fee (12 months)	\$45,360	\$45,360
	Year 3 Cost (Annual Software Maintenance)	Included	Included
	Year 3 Cost (Annual Hardware Maintenance)	\$4,425	\$4,425
	Year 3 Vendor Hosting Fee (12 months)	\$45,360	\$45,360
	Year 4 Cost (Annual Software Maintenance)	Included	Included
	Year 4 Cost (Annual Hardware Maintenance)	\$4,425	\$4,425
	Year 4 Vendor Hosting Fee (12 months)	\$45,360	\$45,360
	Year 5 Cost (Annual Software Maintenance)	Included	Included
	Year 5 Cost (Annual Hardware Maintenance)	\$4,425	\$4,425
	Year 5 Vendor Hosting Fee (12 months)	\$45,360	\$45,360
	5 Year System Total		\$304,335

Customer Authorization _____ Title _____

_____ Date _____

Novatime Technology, Inc. _____ Title _____

_____ Date _____

Novatime Technology, Inc.
 9680 Haven Avenue
 Rancho Cucamonga, CA 91730
Jamie.Blundell@novatime.com
 (909) 895-8137 Fax:(909) 475-4028



VENDOR HOSTED ORDER FORM

Invoice To: City of North Little Rock		Hosted By: Vendor	
Ship To: TBD		Terms: 5 Year Term	
Account Executive: Jamie Blundell		\$28,920	Upon Execution
		\$44,716.50	30 Days From Date of Execution
		\$21,039	45 Days From Date of Execution
		\$10,519.50	90 Days from Date of Execution
Qty	Description	Item	Monthly
Novatime Web-Based Time & Attendance System			
1000	Novatime Web-Based Time & Attendance Software	\$3.00	3,000
1000	Employee Web Services (PC Entry & Smart Phone Application)	Included	Included
100	Supervisor Module: Approval/Reporting/Review/Modification	Included	Included
1	BS&A Bidirectional Payroll Interface (100% Guaranteed Interface)	Included	Included
1	Solomon Dynamics Interface	Included	Included
1	Call In / Call Out Module	Included	Included
1	Electronic In-Out Board	Included	Included
1	Labor Tracking (Activity Based Reporting - 8 Levels)	Included	Included
1	Accrual Module (Includes Sick, Vacation, Personal, etc.)	Included	Included
1	Affordable Care Act Module	Included	Included
1	Notification Module	Included	Included
400	Advanced Scheduling Manager	\$3.50	\$1,400
1000	FMLA Case Tracking Module	\$1.00	\$1,000
	5 Year Government Software Discount	20%	-\$1,080
	Year End Software Discount*	10%	-\$540
	Monthly Total		\$3,780.00
	Annual Vendor Hosting Total		\$45,360
14	NT7000 Biometric Terminal	\$2,290	\$32,060
1	NT7000 HID Proximity Terminal	\$2,290	\$2,290
15	NT7000 Communication: (Ethernet Module, POE, Wireless)		Included
	Year End Hardware Discount*	10%	-\$3,435
	Implementation		28,920
	Annual Hardware Maintenance	\$4,425/yr	1st Yr Free
	Annual Software Maintenance		Included
	12 Month System Total		\$105,195
One Time Implementation Fees			
	Initial Planning Session	Included	
	Rules Questionnaire Assistance	Included	
	Install Novatime Web-Based Software	Included	
	Install Payroll Rules and Employee File	Included	
	Administrative/Supervisor Training	Included	
	Program Hardware	Included	
	Install Hardware	Customer	
	System Test/Go Live	<u>Included</u>	
	Total One Time Fees	\$28,920	

*Year End Software Discount is Valid for all 5 years of the Contract Term, assuming the Contract is executed on or before 12/15/17

Customer Authorization	Title	Date
Novatime Technology, Inc.	Title	Date