

**BRYCER, LLC**  
**4355 Weaver Parkway**  
**Suite 330**  
**Warrenville, IL 60555**

April 6, 2017

Rick Sander  
Fire Chief  
Lombard Fire Department  
255 E Wilson Avenue  
Lombard, IL 60148

**Re: "The Compliance Engine"**

Dear Chief Sander:

We look forward to providing you with "The Compliance Engine" (the "Solution"). This proposal letter provides the basic terms by which Brycer, LLC ("Brycer") will provide you, Lombard Fire Department ("Client"), with the Solution. The use of the Solution and all matters between Brycer and Client will be subject to the standard "Terms and Conditions" attached to this proposal as Exhibit A, which is attached hereto and made a part hereof. The basic terms and the Terms and Conditions may be collectively referred to herein as the "Agreement." The basic terms are as follows:

1. **Term:** Brycer will provide Client with the Solution for three (3) years, commencing April 6, 2017 (the "Initial Term"). Thereafter, the Term shall automatically renew for successive three (3) year periods unless terminated by Brycer or Client in writing at least 90 days prior to the expiration of the then current Term (each, a "Renewal Term" and together with the Initial Term, the "Term"). Following the expiration or termination of the Term under any provision of this Agreement, Client shall stop using the Solution; provided, however, Brycer shall make available, and Client shall have the right to download, Client's data from the Solution for a period of 60 days after the expiration or termination of the Term. Client shall have the right to terminate this Agreement upon giving 90 days written notice to Brycer.

2. **Fees:** Client shall not pay, nor shall Client be liable for, any fees for use of the Solution. Brycer will collect all fees due and payable by third party inspectors in connection with activities relating to the Solution. The fee paid to Brycer by third party inspectors shall be \$12.00 per filing for the Initial Term of the Agreement. This fee may be increased by Brycer for any Renewal Term by providing the Client with 90 days prior written notice of its intent to increase the fee and the amount of the proposed fee increase. Within 45 days of receipt of a written notice of a fee increase, the Client shall either approve the proposed fee increase by ordinance, or inform Brycer of its intent to terminate the Agreement effective upon expiration of the Initial Term or Renewal Term, as the case may be. Fees shall not be increased during the Initial Term or any Renewal Term.

3. **Brycer Responsibilities:** During the Term, Brycer shall be responsible for the following in connection with Client's use of the Solution:

- **Availability.** Brycer shall make the Solution available to Client as set forth on Exhibit B, which is attached hereto and made a part hereof. The maintenance schedule and minimum service levels for the Solution are set forth on Exhibit B.
  - **Service Level.** Brycer shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with Client and access the Solution.
  - **Backup.** Brycer shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis. Upon request by Client or made prior to or within 60 days after the effective date of termination of the Term, Brycer will make available to Client a complete and secure (i.e. encrypted and appropriately authenticated) download file of Client data in XML format including all schema and attachments in their native format. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Client data. Brycer shall not (a) modify Client data or (b) disclose Client data except as required by law.
  - **Retention of Information.** Brycer will maintain all information entered into the database by third party inspectors for at least five (5) years from the time such information is entered into the database.
  - **Notices.** Brycer will be responsible for generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections will be sent out thirty-seven days prior to due date; (b) notices that an inspection is past due will be sent out last day of month following due date; and (c) notices of completed inspection reports which contain one or more deficiencies will be sent out the next business day after Client has reviewed. All notices will be sent out either by email or first class mail.
  - **Call Center** Phone calls by Brycer on behalf of the Client to the property for EACH life-safety system overdue for service based on dates automatically tracked within the TCE database. Brycer is not an agent of the Client and all scripts for the overdue calls will be approved by the Client.
  - **Updates and Enhancements.** In the event Brycer releases any updates, corrections, or enhancements to the Solution during the Term, Brycer shall promptly provide and facilitate the installation of such updates or corrections to Client free of any charge or fee.
4. **Client Responsibilities:** During the Term, Client shall be responsible for the following in connection with Client's use of the Solution:
- **Operating System.** Client shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution installed on the Client's equipment (the "Client Access Software") and for the installation of network connections to the Internet. In addition to any other Client Access Software requirements, Client must use Internet Explorer 11.0, Edge, Firefox version 37, Chrome 40 or Safari 7.1 (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.
  - **Training.** Client shall allow Brycer at Client's facilities to train all applicable personnel of Client on the use of the Solution.
  - **Information.** Client shall promptly provide Brycer with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within Lombard's jurisdiction for Brycer's initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion.
  - **Enforcement.** Client shall take all actions necessary to require in writing (e.g. resolution, ordinance, fire policy, code amendment) the use of the Solution by third party inspection companies.
  - **Reports.** Client will require all compliant and deficient fire protection system inspection, testing and maintenance report to be submitted for test performed in clients jurisdiction.



5. **Ownership of Data.** Client owns all the data provided by Client and received from third party contractors for Client ("Client Data"). Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Client's data. Further, Brycer is expressly prohibited from sharing Client Data with any third-party for commercial purposes including, without limitation, sharing Client Data with repair contractors in exchange for a business lead generation fee.

6. **Freedom of Information Act Compliance.** Section 7(2) of the Illinois Freedom of Information Act (the "FOIA") (5 ILCS 120/7(2)) requires certain records that qualify as "public records," which have been prepared by and are in the possession of a party who has contracted with the Client, be turned over to the Client so that a FOIA requestor can inspect and photocopy the non-exempt portions of the public records pursuant to a FOIA request. The Client has a very short period of time from receipt of a FOIA request to comply with the request, and the Client requires sufficient time to review the records to decide what information is or is not exempt from disclosure. Brycer acknowledges the requirements of FOIA and agrees to comply with all requests made by the Client for public records (as that term is defined by Section 2(c) of FOIA) in Brycer's possession and to provide the requested public records to the Client within two (2) business days of the request being made by the Client. Brycer agrees to indemnify and hold harmless the Client from all claims, costs, penalties, losses and injuries (including but not limited to, attorney's fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide public records to the Client under this Agreement.

Please acknowledge your acceptance of this proposal and our standard Terms and Conditions by counter-signing this proposal below. We look forward to a long-term and mutually beneficial relationship with you.

Brycer, LLC

By: Matthew B. P. [Signature]  
Its: President

Acknowledged and Agreed to this  
14 day of April, 2017:

[CLIENT]

By: [Signature]  
Its: Chief

## Exhibit A

### Terms and Conditions

Any capitalized terms not defined in these Terms and Conditions shall have the meaning assigned to it in that certain Letter Agreement attached hereto by and between Brycer, LLC and Client (the "Agreement").

1. Restrictions on Use. Client shall not copy, distribute, create derivative works of or modify the Solution in any way. Client agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution for the benefit of Client; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution; (c) it shall not sell, resell, rent or lease the Solution; (d) it shall not use the Solution to store or transmit infringing or otherwise unlawful or tortious material, or to store or transmit material in violation of third party rights; (e) it shall not interfere with or disrupt the integrity or performance of the Solution or third-party data contained therein; and (f) it shall not reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the Solution. Client is responsible for all actions taken by the Authorized Users in connection with the Solution.
2. Proprietary Rights. All right, title and interest in and to the Solution and any and all derivative works or modifications thereof (the "Derivative Works"), and any accompanying documentation, manuals or other materials used or supplied under this Agreement or with respect to the Solution or Derivative Works (the "Documentation"), and any reproductions works made thereof, remain with Brycer. Client shall not remove any product identification or notices of such proprietary rights from the Solution. Client acknowledges and agrees that, except for the limited use rights established hereunder, Client has no right, title or interest in the Solution, the Derivative Works or the Documentation.
3. Independent Contractor. Nothing in the Agreement may be construed or interpreted as constituting either party hereto as the agent, principal, employee or joint venturer of the other. Each of Client and Brycer is an independent contractor. Neither may assume, either directly or indirectly, any liability of or for the other party. Neither party has the authority to bind or obligate the other party and neither party may represent that it has such authority.
4. Reservation of Rights. Brycer reserves the right, in its sole discretion and with prior notice to Client, to discontinue, add, adapt, or otherwise modify any design or specification of the Solution and/or Brycer's policies, procedures, and requirements specified or related hereto. All rights not expressly granted to Client are reserved to Brycer, including the right to provide all or any part of the Solution to other parties. In the event Brycer discontinues, adds, adapts, or otherwise modifies the Solution and/or Brycer's policies, procedures, and requirements specified or related hereto, in a manner which the Client determines, in its sole discretion, to render its use of the Solution impractical or undesirable, this Agreement shall be immediately terminable by the Client upon written notice to Brycer. In the event that this Agreement is terminated under this Section 4, Brycer shall make available, and Client shall have the right to download, Client's data from the Solution for a period of 60 days after termination of the Agreement.
5. Use of Logos. During the term of this Agreement, Brycer shall have the right to use Client's logos for the purpose of providing the Solution to Client.
6. Confidential Information. Brycer and Client acknowledge and agree that in providing the Solution, Brycer and Client, as the case may be, may disclose to the other party certain confidential, proprietary trade secret information ("Confidential Information"). Confidential Information may include, but is not limited to, the Solution, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. Each party agrees that it will not, without the express prior written consent of the other party, disclose any Confidential Information or any part thereof to any third party. Confidential Information excludes information: (a) that is or becomes generally available to the public through no fault of the receiving party; (b) that is rightfully received by the receiving party from a third party without limitation as to its use; or (c) that is independently developed by receiving party without use of any Confidential Information. At the termination of this Agreement, each party will return the other party all Confidential Information of the other party. Each party also agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with any Confidential Information of the other party or any firmware, circuit board or software provided therewith. Notwithstanding the foregoing, the parties acknowledge that Client shall be permitted to comply with any all federal and state laws concerning disclosure.
7. Brycer Warranty. Brycer represents and warrants to Client that Brycer has all rights necessary in and to any patent, copyright, trademark, service mark or other intellectual property right used in, or associated with, the Solution, and that Brycer is duly authorized to enter into this Agreement and provide the Solution to Client pursuant to this Agreement.
8. Disclaimer. All information entered into Brycer's database is produced by third party inspectors and their agents. **THEREFORE, BRYCER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION ENTERED INTO BRYCER'S DATABASE BY EITHER CLIENT OR THIRD PARTY INSPECTORS. EXCEPT AS SET FORTH IN SECTION 7, BRYCER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION OR ANY OTHER INFORMATION AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRYCER'S SOLE LIABILITY FOR BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7, AND CLIENT'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD RECIPIENT HARMLESS FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY.**
9. LIMITATION ON DAMAGES. EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, IN NO EVENT SHALL BRYCER BE LIABLE FOR OR OBLIGATED IN ANY MANNER FOR SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS OR SYSTEM DOWNTIME. CLIENT ACKNOWLEDGES AND AGREES THAT IN NO CASE SHALL BRYCER'S LIABILITY FOR ANY LOSS OF DATA OR DATA INTEGRITY EXCEED THE REPLACEMENT COST OF THE MEDIA ON WHICH THE DATA WAS STORED.
10. Risks Inherent to Internet. Client acknowledges that: (a) the Internet is a worldwide network of computers, (b)



communication on the Internet may not be secure, (c) the Internet is beyond the control of Brycer, and (d) Brycer does not own, operate or manage the Internet. Client also acknowledges that there are inherent risks associated with using the Solution, including but not limited to the risk of breach of security, the risk of exposure to computer viruses and the risk of interception, distortion, or loss of communications. Accordingly, Client hereby assumes the risk, and Brycer shall have no responsibility or liability to the Client for: (1) errors in the Solution resulting from misuse, negligence, revision, modification, or improper use of all or any part of the Solution by any entity other than Brycer or its authorized representatives; (2) any version of the Solution other than the then-current unmodified version provided to Client; (3) Client's failure to timely or correctly install any updates to the Client Access Software; (4) problems caused by connecting or failure to connect to the Internet; (5) failure to provide and maintain the technical and connectivity configurations for the use and operation of the Solution that meet Brycer's recommended requirements; (6) nonconformities resulting from or problems to or caused by non-Brycer products or services; or (7) data or data input, output, accuracy, and suitability, which shall be deemed under Client's exclusive control.

11. Indemnity. The Client shall indemnify and hold harmless Brycer and its officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of the Client, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to this Agreement.

Brycer shall indemnify and hold harmless the Client and its elected officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of the Brycer or its officials, officers, agents, employees, consultants or contractors, pursuant to this Agreement. Nothing contained in this Agreement shall constitute a waiver of any privileges, defenses or immunities which the Client may have under the Local Governmental and Governmental Employees Tort Immunity Act with respect to any claim brought by a third party.

12. Breach. Brycer shall have the right to terminate or suspend this Agreement, and all of Client's rights hereunder, immediately upon delivering written notice to Client detailing Client's breach of any provision of this Agreement. If Client cures such breach within 5 days of receiving written notice thereof, Brycer shall restore the Solution and Client shall pay any fees or costs incurred by Brycer in connection with the restoration of the Solution.
13. Illegal Payments. Client acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or anything of value from any employee or agent of Brycer in connection with the Agreement.
14. Beneficiaries. There are no third party beneficiaries to the Agreement.
15. Force Majeure. Neither party shall be responsible for any failure to perform due to unforeseen, non-commercial circumstances beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, blackouts,

accidents, or strikes. In the event of any such delay, any applicable period of time for action by said party may be deferred for a period of time equal to the time of such delay, except that a party's failure to make any payment when due hereunder shall not be so excused.

16. Notices. All notices required in the Agreement shall be effective: (a) if given personally, upon receipt; (b) if given by facsimile or electronic mail, when such notice is transmitted and confirmation of receipt obtained; (c) if mailed by certified mail, postage prepaid, to the last known address of each party, three business days after mailing; or (d) if delivered to a nationally recognized overnight courier service, one business day after delivery.
17. Assignment. The Agreement may not be assigned or transferred by Client or Brycer without the prior written consent of the other party and any purported transfer in violation of this section shall be null and void. The Agreement shall be binding upon and inure to the benefit of the parties thereto and their respective successors and representatives.
18. JURISDICTION AND VENUE. THE AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, AND ENFORCEABLE UNDER, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND THAT ARE TO BE WHOLLY PERFORMED IN SUCH STATE WITHOUT REFERENCE TO THE CHOICE-OF-LAW PRINCIPLES OF SUCH STATE. THE PARTIES IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THE AGREEMENT SHALL BE LITIGATED ONLY IN THE CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE CIRCUIT COURT OF DUPAGE COUNTY, ILLINOIS. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRANSFER OR CHANGE VENUE OF ANY SUCH ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THE AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
19. Attorneys' Fees. The prevailing party in any proceeding in connection with the Agreement shall be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, reasonable attorneys' and paralegals' fees and costs incurred by such party in connection with any such proceeding.
20. Entire Agreement. The Agreement sets out the entire agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, oral or written.
21. Amendment. The Agreement may not be altered or modified, except by written amendment which expressly refers to the Agreement and which is duly executed by authorized representatives of both parties. The waiver or failure by either party to exercise or enforce any right provided for in the Agreement shall not be deemed a waiver of any further right under the Agreement. Any provision of the Agreement held to be invalid under applicable law shall not render the Agreement invalid as a whole, and in such an event, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law. The Agreement may be executed by facsimile and in counterparts, each of which shall

be deemed an original, and all of which together shall constitute one and the same instrument.

22. Expiration. The rights and obligations contained in these Terms and Conditions shall survive any expiration or termination of the Agreement.

23. This Agreement may be executed in any number of counterparts, each of which when so executed will

be deemed to be an original and all of which when taken together will constitute one Agreement. The parties agree that original signatures of a party transmitted by facsimile or in portable document format (pdf) or electronic signatures affixed to this Agreement shall be as valid as an original signature of such party to this Agreement.

## **Exhibit B**

### **Maintenance Schedule and Minimum Service Levels**

1. **Uptime and Maintenance.**

The Solution shall be available 24 hours per day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by Client at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide Client with advance notice of any unscheduled downtime. At least 12 hours of advance notice will be provided for scheduled downtime which will be after normal business hours for routine maintenance and upgrades.

2. **Response Time.**

Developer shall respond to telephone calls from Client within two hours of the call and/or message and all emails from Client within two hours of the receipt of the email.

3. **Customer Support**

Customer support hours are 24/7/365. The toll free number is 1-855-279-2371

Brycer will assign client a dedicated customer representative with direct access to their email and work number.