

**DACRA Municipal Enforcement System  
 "Software as a Service Pricing Agreement" for the Village of Lombard**

Subject to the Terms and Conditions attached, DACRA Governmental Systems, LLC ("DACRA") hereby agrees to allow the Village of Lombard, an Illinois municipality (the "Municipality") to access DACRA's Municipal Compliance System under the following Software as a Service Pricing Agreement:

**A. Monthly Usage Fee—Price Locked During Initial Term (minimum \$1,500 per month):**

*Monthly Usage Fee* is tiered, based on annual citation volume and is calculated by totaling the following:

*Tier 1 – 0-10k Citations – (no charge for warnings or state citations)*

- o \$2.00 per adjudication citation and administrative tow ticket created in the system
- o \$2.00 per Finding, Decision, and Order "FDO" issued in the system.

*Tier 2 – 10k-20k Citations*

- o \$1.50 per adjudication citation and administrative tow ticket created in the system
- o \$1.50 per Finding, Decision, and Order "FDO" issued in the system.

*Tier 3 – Over 20k Citations*

- o \$1.00 per adjudication citation and administrative tow ticket created in the system
- o \$1.00 per Finding, Decision, and Order "FDO" issued in the system.

**B. Initial Implementation and Training Set-Up Cost:                      \$10,000.00**

**C. Optional Interface Costs:<sup>1</sup>**

*RMS Interface:* The price for our existing interface to push basic citation Data from DACRA to certain RMS systems is \$5,000. For other similar interfaces, prices will be quoted upon specification and architecture analysis.

*Municipal Finance/ERP Interface:* The price for our existing interface to push citation financial Data from DACRA to Tyler New World Logos systems is \$5,000. For other similar interfaces, prices will be quoted upon specification and architecture analysis.

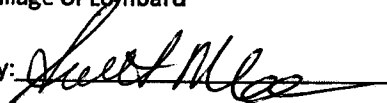
**D. Importing and Conversion of Existing Records:**

The typical Data conversion fee is \$5,000 for importing Client's basic legacy parking citation Data from Client's existing legacy program. Specific pricing will be quoted upon specification and architecture analysis.

**E. Initial Term:** Three-year Initial Term which begins on "Go Live" date. Municipality can cancel service anytime by giving DACRA a minimum of 90 days written notice of termination date.

Village of Lombard

DACRA Governmental Systems, LLC

By: 

By: \_\_\_\_\_

Print Name: Scott Niehaus

Print Name: \_\_\_\_\_

Title: Village Manager

Title: \_\_\_\_\_

Date: April 19, 2019

Date: \_\_\_\_\_

<sup>1</sup> There is no additional charge for use of DACRA's existing interfaces with LEADS, IDROP, County Courts, collection and web-pay vendors.

## **DACRA Municipal Enforcement Software**

### **“Software as a Service” Terms and Conditions**

#### **A. Agreement Definitions**

“Municipality” and “You” and “Your” refers to the governmental entity that has executed DACRA’s Municipal Compliance System Software as a Service Pricing Agreement (the “Pricing Agreement”) that accompanies and incorporates these Terms and Conditions (the Pricing Agreement and these Terms and Conditions are collectively referred to as the “Agreement”). Software as a service consists of system administration, system management, and system monitoring activities that DACRA performs for its Municipal Compliance System (collectively, the “Services”). The term “Program Documentation” refers to materials provided by DACRA as part of the Services. The term “Municipal Compliance System” refers to the software products owned or distributed by DACRA to which DACRA grants You access as part of the Services. The term “Users” shall mean those individuals authorized by You or on Your behalf to use the Services.

#### **B. Rights Granted**

Upon DACRA’s acceptance of Your order and for the duration of the Term of this Agreement, You have the nonexclusive, non-assignable, royalty free, worldwide limited right to use the Services solely for Your municipality’s ordinance and code compliance purposes and subject to the terms of the Agreement. You may allow Your Users to use the Services for this purpose and You are responsible for Your Users’ compliance with the Agreement. You acknowledge that DACRA has no delivery obligation and will not ship copies of the software that runs DACRA’s Municipal Compliance System to You as part of the Services. You agree that You do not acquire under the Agreement any right to use the Municipal Compliance System beyond the scope or the duration of the Term of this Agreement. Upon the end of the Term, Your right to access or use the Services shall terminate.

#### **C. Third-Party Agreements**

It may be necessary for You to enter into additional contracts with third-party vendors in order to use some of DACRA’s features. DACRA has no control and is not liable with respect to the services provided to You by third-party vendors and any price increases from such third-party vendors shall be Your responsibility.

#### **D. Your Data**

You retain all ownership in and to Your Data. The term “Your Data” refers to the all citation and hearing data collected on behalf of You with respect to the Services. As part of DACRA’s Services, reciprocal access to Your Data is provided to authorized DACRA users in other municipalities, in return for allowing Your authorized Users to access similar data in such participating municipalities. You may opt out of this reciprocal data sharing arrangement by providing written notice to DACRA. DACRA will undertake all reasonable measures to protect Your Data from unauthorized access and will comply with the *DACRA Services Privacy Policy*, which can be found on DACRA’s website. Upon termination of the Agreement, DACRA will provide You an electronic copy of Your Data within sixty days after the effective date of termination.

#### **E. DACRA’s Intellectual Property**

DACRA or its licensors retain all ownership and intellectual property rights to the Services and to its Municipal Compliance System. DACRA retains all ownership and intellectual property rights to anything delivered under the Agreement, including any future developments, regardless of whether You, or any of Your employees or agents, had any input or in any way assisted in any such new development. You may not:

- Allow access to the Services available in any manner to any third-party or for any purpose not authorized by this Agreement unless such access is expressly permitted by DACRA;
- copy, reproduce, distribute, republished, download, display, post or transmit in any form or by any means, any of the Program Materials, except for the use of Your authorized Users; and,
- modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the Services (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs).

#### **F. Pricing and Billing**

The Monthly Usage Fee pricing set forth in the Pricing Agreement will remain fixed during the Initial Term. After the expiration of the Initial Term, DACRA reserves the right to modify the Monthly Usage Fee pricing by providing You a minimum of 90 days advanced written notice before such price change goes into effect. You agree to remit full payment of DACRA’s invoices within thirty (30) days of receipt. You agree to pay any sales, value-added or other similar taxes imposed by applicable law that DACRA must pay based on the Services, except for taxes based on DACRA’s income. For any partial month during the Term, the Monthly Usage Fee (including the minimum fee) shall be prorated based on the number of days that the Services were provided for such month.

DACRA may audit Your use of the Services. You agree to cooperate with DACRA’s audit and provide reasonable assistance and access to information.

#### **G. Termination**

You shall have the right to terminate this Agreement for any reason (or no reason at all) by providing DACRA a minimum of 90 days advanced written notice of the effective date of the termination of Services.

DACRA may immediately suspend Your password, account, and access to or use of the Services (i) if You fail to pay any sums due DACRA under the Agreement within ten days after written notice from DACRA of the payment default, or (ii) if You violate any other provision of this Agreement and you do not cure said default within thirty days after written notice from DACRA.

Regardless of the reason for the termination of this Agreement, you agree to pay all fees due DACRA which accrue or are incurred prior to the termination of the Agreement.

#### H. Limitation of Liability

DACRA DOES NOT GUARANTEE THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT DACRA WILL CORRECT ALL SERVICES ERRORS. YOU ACKNOWLEDGE THAT DACRA DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. DACRA IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

IN THE EVENT THERE IS A SERVICE INTERRUPTION WHICH LASTS MORE THAN 24 HOURS DUE TO THE FAULT OF DACRA, DACRA WILL REMIT A SERVICES FEE CREDIT TO YOU CALCULATED AT TEN PERCENT (10%) OF NET MONTHLY USAGE FEE FOR THE MONTH IN WHICH THE BREACH OCCURRED. THE CREDIT WILL BE PROVIDED ONLY TOWARDS ANY OUTSTANDING BALANCE FOR SERVICES OWED TO DACRA, AND THE REMITTANCE OF SUCH CREDIT WILL REPRESENT YOUR EXCLUSIVE REMEDY, AND DACRA'S SOLE LIABILITY, FOR ANY BREACHES OF THIS AGREEMENT. TO THE EXTENT NOT PROHIBITED BY LAW, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE OR PROFITS. DACRA'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS SOFTWARE AS A SERVICE AGREEMENT, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNTS ACTUALLY PAID TO DACRA FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. ANY DAMAGE IN YOUR FAVOR AGAINST DACRA SHALL BE REDUCED BY ANY REFUND OR CREDIT RECEIVED BY YOU UNDER THE AGREEMENT AND ANY SUCH REFUND AND CREDIT SHALL APPLY TOWARDS THE LIMITATION OF LIABILITY.

#### I. Other

1. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment relationship between the parties, nor shall either party have the right, power, or authority to create any obligation or duty, express or implied, on behalf of the other.
2. DACRA may assign this Agreement by providing written notice of the assignee who will assume DACRA's obligations under this Agreement. You may not assign this Agreement without DACRA's prior written consent.
3. You shall obtain at Your sole expense any rights and consents from third-parties necessary for DACRA and its subcontractors to perform the Services under the Agreement.
4. The Agreement is governed by the substantive and procedural laws of Illinois. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Chicago, Illinois before one arbitrator. The arbitration shall be administered by JAMS in accordance with JAMS' Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction.
5. Except for actions for nonpayment or breach of DACRA's proprietary rights, no action, regardless of form, arising out of or relating to the Agreement may be brought by either party more than two years after the cause of action has accrued.
6. Neither of us shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of the obligated party. We both will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, either of us may cancel unperformed Services upon written notice. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or Your obligation to pay for the Services.
7. You agree (i) that DACRA may identify You as a recipient of Services in sales presentations and marketing materials.
8. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, and each of which together shall constitute a single instrument. Copies of this Agreement (as well as any documents related to this Agreement) signed and transmitted by a party by electronic transmission shall be deemed for all purposes as containing the original signature of the transmitting party and legally binding upon such transmitting party.
9. You agree that this Agreement is the complete agreement for the services ordered by You, and that this Agreement supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such services. The Agreement may not be modified, and the rights and restrictions may not be altered or waived except in a writing signed by authorized representatives of You and of DACRA.