

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village Council Meeting**  
**10/5/2021**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Award of Contract – Multi-year contract with Ltyx Inc. for upgrades to the Driver Safety Program (DriveCam)	Andy Sikich Public Works Director

**SYNOPSIS**

A resolution has been prepared to authorize a contract with Ltyx Inc., of San Diego, CA, for upgrades to the Driver Safety Program (DriveCam) in the amount of \$181,677.37, which includes a 10% contingency.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2021-2023 include *Exceptional Municipal Services*.

**FISCAL IMPACT**

There is a sufficient amount budgeted in the risk fund for this purchase. Future years of the contract will be budgeted accordingly.

**RECOMMENDATION**

Approval on the October 5, 2021 consent agenda.

**BACKGROUND**

DriveCam is a risk management program provided by Ltyx that improves driver behavior, reduces collision costs, and prevents fuel waste by focusing on driving behavior and providing a program to improve behaviors. It addresses the causes of poor driving behaviors by combining data and video analytics with real-time driver feedback and coaching. The program advances the safety and efficiency of drivers by providing staff with a unique perspective into the fleet. Through the data and analytics that are provided by DriveCam, Village supervisors are able to effectively coach drivers to reduce poor behaviors and reward good driving behaviors.

The Village has been using Drivecam since 2014, and entered into a new five-year contract in 2019. However, DriveCam uses video event recorders that are mounted in each vehicle, and the current video event recorders use 3G cellular service, which will be discontinued in February 2022. Since the 3G service will be discontinued, the video event recorders must be upgraded to new, 4G/LTE capable devices. The new contract with Ltyx includes installation of 75 new event recorders, removal of existing event recorders, and subscription services for five years. This contract replaces the contract executed in 2019 and will run for a new five-year period.

**ATTACHMENTS**

Resolution  
Agreement

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION AUTHORIZING EXECUTION OF AN  
AGREEMENT BETWEEN LYTX, INC.  
AND THE VILLAGE OF DOWNERS GROVE  
FOR UPGRADES TO THE DRIVER SAFETY PROGRAM (DRIVECAM)**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the "Agreement"), between the Village of Downers Grove (the "Client") and Lytx, Inc. ("Lytx, Inc."), for upgrades to the Driver Safety Program (DriveCam) in the amount of \$165,161.25, plus a 10% contingency in the amount of \$16,516.12 for a total not-to-exceed \$181,677.37, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest:

\_\_\_\_\_  
Village Clerk



## MASTER PURCHASE AGREEMENT

This Master Purchase Agreement (“**Agreement**”) is entered into as of the date executed by both parties as specified on the signature page hereto (“the “**Effective Date**”) by and between Lytx, Inc., a Delaware corporation, with its principal place of business at 9785 Towne Centre Drive, San Diego, California, 92121 U.S.A. (“**Lytx**”), and Village of Downers Grove, with its principal place of business at 801 Burlington, Downers Grove, IL, 60515 United States (“**Client**”).

**WHEREAS**, Lytx develops, markets, sells and provides driving performance management products and related services focused on improving driver safety and compliance, and reducing operating costs for commercial fleets;

**WHEREAS**, Client desires to receive, and Lytx agrees to provide Client, such products and services as specified herein;

**NOW, THEREFORE**, the parties agree as follows:

### 1. CERTAIN DEFINITIONS

“**Affiliate**” means, with respect to any Person, any other Person that is in control of, controlled by or under common control with such first Person.

“**Documentation**” means the written Software and Hardware related specifications Lytx provides to Client hereunder.

“**Fees**” means the prices and fees set forth in a Purchase Order that are established by Lytx and charged to Client for the Products and Services. Lytx’s published prices, if any, are subject to change without notice.

“**Hardware**” means Lytx’s VERs, Lytx Hub Adaptor and other hardware provided to Client hereunder.

“**Person**” means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or agency or instrumentality thereof.

“**Product(s)**” means the Software and Hardware together.

“**Purchase Order**” means a written purchase quote document prepared by Lytx, signed by an authorized representative of Client and accepted by Lytx, but only to the extent the document identifies the following: the Products and Services to be purchased, the quantity for each Product, the Fees, the delivery location for the Products (if applicable), the Subscription Term, any extended warranty, and Client’s billing address.

“**Services**” means the services Lytx makes available to Client under this Agreement, as more fully described in the applicable Service Offering Addendum(s) of this Agreement and/or the applicable Purchase Order(s).

“**Software**” means any software (in machine executable object code format only, if applicable) provided to Client under this Agreement, including, without limitation, the operating software embedded in the Hardware, installation tool software, event player software, access to the web-based client portal to access Client’s Lytx account and any other software made available by Lytx on a website hosted by or on behalf of Lytx for use by Client.

“**Subscription Term**” means the duration of time set forth on a Purchase Order for which the Client has purchased a subscription to certain Services specified in the Purchase Order.

“**Taxes**” shall mean sales, excise, use, value-added, or other similar taxes for which Lytx is obligated to collect from Client, as well as any increase in the Product manufacturing or materials costs where caused by taxes, excises, duties or other charges of any kind (or increase in the same), or any such levy of any kind on the sale, import, delivery to or the use by Client, imposed by

any national, state or municipal government, or any agency or political subdivision thereof.

“**VER**” means a Lytx video event recorder of the make and model specified in the applicable Purchase Order and may be comprised of more than one component.

### 2. SCOPE

2.1 Contract Documents. This Agreement consists of the following documents, as may be amended from time to time as provided herein:

This Agreement;

Service Offering Addendum(s) (and any schedules thereto);

Addendum B; and

Purchase Orders, if applicable.

In the event of any conflict between the provisions of the above listed documents, unless expressly stated otherwise, the documents shall control in the following order: this Agreement first; the applicable Service Offering Addendum(s) second; any schedules to such Addendum(s) third; and a Purchase Order fourth.

2.2 Product Sale and Purchase. Subject to the terms and conditions of this Agreement, Lytx shall sell to Client and Client shall purchase from Lytx the Products and Services specified in a Purchase Order accepted by Lytx. Subject to Lytx’s receipt of Client’s prior written consent, which shall not be unreasonably withheld, Lytx may, for reasons of availability, substitute alternative associated Hardware (but not VERs) to that specified in a Purchase Order; provided that such alternative Hardware is functionally the same, in all material respects, as the ordered Hardware. Any subscription Services include online standard report creation capabilities only. If Client requests additional or specialized reports and/or programming, Client shall pay Lytx additional fees as mutually agreed by the parties.

### 3. ORDERS; DELIVERY; IMPLEMENTATION

3.1 Order; Acceptance; Change. Client shall initiate all purchases under this Agreement by submitting Purchase Orders to Lytx, which are subject to Lytx’s acceptance. Upon acceptance by Lytx, all Purchase Orders are binding and non-cancelable, except that Purchase Orders may be canceled, rescheduled, or amended with Lytx’s prior written approval and subject to payment of any additional fees mutually agreed by Lytx and Client.

3.2 Delivery. All items shall be delivered to the carrier F.C.A. Lytx’s designated shipping place. With respect to Hardware purchased hereunder, title to the Products (excluding title to the Software) will pass to Client upon Lytx’s delivery to the carrier.

With respect to any Hardware provided on a usage basis hereunder, title to the Products shall remain at all times with Lytx. Unless otherwise instructed in writing by Client in the Purchase Order, Lytx shall select the carrier. All freight, insurance, and other shipping related expenses, including but not limited to Taxes and duties, shall be paid by Client. Within fifteen (15) days after delivery of any Hardware to Client or its designee (including any third party purchaser of Client) hereunder, Client must provide Lytx with written notice of any discrepancy between the applicable Purchase Order and the shipment delivered.

**3.3 Installation of Products.** If installation services are included in a Purchase Order, Lytx shall use commercially reasonable efforts to install the Products. Client shall provide Lytx a safe, designated installation area protected from environmental hazards. Client shall provide Lytx with reasonable cooperation, including, without limitation, accurate information about vehicle types, and access to all necessary Client personnel, facilities and equipment (including the Products) for the purpose of performing its obligations hereunder. Any Lytx installation services provided hereunder shall be subject to a mutually agreed installation schedule. Client shall be responsible for ensuring availability of vehicles and Hardware (subject to supply by Lytx) and access to installation site on agreed installation date, and shall comply with all reasonable instructions related to the installation. No refunds shall apply for Lytx's failure to complete an installation due to vehicle or Hardware unavailability, lack of advance notice of accurate vehicle information, or lack of access to installation site on agreed installation date. If the implementation schedule is delayed, extended or rescheduled at Client's request (in each case, with less than three (3) days prior written notice to Lytx), Client's failure to provide Lytx access to vehicles, facilities and/or necessary equipment or any other reason caused by Client, Client agrees to reimburse Lytx for any costs (including labor costs, travel, food, lodging, extra shipping fees and other project specific costs) and cancellation fees actually incurred by Lytx as a result of such change. Client shall be responsible for approving the installation placement and technique on the initial Hardware for each major vehicle type (First Article Installation), including compliance with applicable laws. Such approval shall constitute authorization for Lytx to proceed with installation of remaining Hardware using the Client-approved placement and technique. If installation services are not purchased by Client hereunder, Client assumes any and all liability resulting from such installation of Products, including, without limitation, liability resulting from failure to use a properly trained technician or failure to use proper installation tools. Lytx expressly disclaims any and all responsibility for any damages arising out of improper installation and maintenance of any Hardware not installed by, or on behalf of, Lytx. Client shall defend, indemnify and hold Lytx and its officers, directors, agents, subcontractors and employees harmless from all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from installation or maintenance of the Products by a party other than Lytx or its representatives.

**3.4 Client Assistance and Action Items.** Client shall use commercially reasonable efforts to ensure that all personnel installing or using any Products and/or Services receive appropriate training, are familiar with the Products and the Services, and are qualified to carry out their duties and responsibilities. Client acknowledges and agrees that Lytx's provision of the Services depends on the full and timely cooperation of the Client and its employees, contractors and agents. Client shall, and shall use commercially reasonable efforts to cause its employees, contractors and agents to, comply with all instructions from Lytx relating to deployment of the Products and Services and provide in a timely manner and at no cost to Lytx, assistance, cooperation, information, and feedback, as well as access to Client personnel, data, facilities and equipment, reasonably necessary to enable Lytx to perform its obligations hereunder. Client acknowledges that Lytx's ability to

perform its obligations under this Agreement may be affected if Client does not comply with its obligations under this section.

#### **4. PRICING AND PAYMENTS**

Subject to the terms hereof, Client will pay Lytx the Fees for the Products and Services set forth in the governing Purchase Order and any and all applicable Taxes. Subject to Client establishing and maintaining a credit status satisfactory to Lytx, all Fees will be due and payable in U.S. dollars (or as otherwise specified in a Purchase Order, for sales outside the U.S.), within thirty (30) days after the date indicated on Lytx's invoice(s). Unpaid invoices are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower. Client shall be responsible for all Taxes associated with the Products and Services other than U.S. taxes based on Lytx's net income unless Client is a tax-exempt entity. The Village will comply with the Illinois Local Government Prompt Payment Act.

#### **5. COMMENCEMENT; TERMINATION**

This Agreement shall commence on the Effective Date and remain in effect until delivery of all Products and expiration of all Services to be provided hereunder, unless earlier terminated as provided herein. Either party may immediately terminate this Agreement upon written notice if: (i) the other party commits any material breach of this Agreement that is not remedied within thirty (30) days following receipt of written notice thereof from the non-breaching party; (ii) a receiver is appointed for the other party or its assets; (iii) the other party makes a general assignment for the benefit of its creditors; (iv) the other party commences, or has commenced against it, proceedings under any bankruptcy, insolvency, or debtor's relief law, which proceedings are not dismissed within one hundred and twenty (120) days; or (v) the other party is liquidated or dissolved, other than in a corporate reorganization in which the ongoing business of such liquidated or dissolved party shall be continued by substantially the same ownership and management as existed prior to such liquidation or dissolution. All Software licenses granted and all Services provided hereunder shall terminate upon termination or expiration of this Agreement. The following Sections shall survive termination or expiration of this Agreement: 1, 2.1, 4, 6, 7.4, and 8 through 17 (inclusive). Upon termination, any outstanding amounts due hereunder shall be paid to Lytx by Client within thirty (30) days from such termination, and Lytx shall have no obligation to return any undisputed amounts previously paid by Client to Lytx.

#### **6. TRIAL PRODUCTS AND SERVICES**

Any trial Products or Services provided hereunder are provided only for the trial period specified in the applicable Purchase Order. Title to the trial Products shall remain at all times with Lytx. Upon expiration or termination of the trial, Client shall (within thirty (30) days from such expiration or termination) return the trial Products to Lytx in good condition (reasonable wear and tear excepted) or purchase the trial Products or a right to use them.

#### **7. SOFTWARE**

**7.1 License.** Subject to the terms of this Agreement, to the extent such Services are purchased hereunder, Lytx grants Client a nonexclusive, nontransferable license to access and use the online web-based portal for the Services for Client's internal fleet management purposes only, without the right to sublicense such rights, provided Client unconditionally agrees to access and use the Software and Services strictly in accordance with the Documentation, any terms of use posted on the Lytx website used to access the Services and this Agreement ("**License**"). Under the License, Client may print out, or otherwise make, printed or electronic copies ("**Copies**") of the reports, numeric results and other information and materials generated from Client's access and use of the Software and Services for internal fleet management purposes only. Any updates, modifications, enhancements or new versions of the Software or Services

provided or made available to Client by Lytx, in accordance with this Agreement, shall be considered Software and Services subject to this Agreement. Lytx shall be entitled at any time and without liability to improve, modify, suspend, test, maintain or repair the systems used by Lytx to provide the Services in whole or in part and/or any other services rendered under this Agreement even if this requires temporarily suspending the operation of the Services, provided that Lytx shall use reasonable efforts to minimize all forms of disruption resulting therefrom.

7.2 License Term. Licenses are purchased and apply for the applicable subscription period, including any renewal periods (the "**License Term**"). Licenses relating to Managed Services apply on a per VER basis.

7.3 Restrictions on Use. Except as otherwise expressly provided in this Agreement, Client agrees to: (a) only use the Software and Services in the manner, and for the purposes, expressly specified in this Agreement, and be responsible for utilizing the proper version of any Software; (b) not decompile, disassemble, analyze or otherwise examine the Software and/or Services for the purpose of reverse engineering, or facilitate or permit a third party to do so (except to the extent this restriction is expressly prohibited by applicable law); (c) not delete or in any manner alter any notice, disclaimers or other legends contained in the Software and Services or appearing on any screens, documents, reports, numeric results or other materials obtained by Client through use of the Software and Services ("**Notices**"); (d) reproduce and display all Notices on Copies Client makes, in accordance with this Agreement; (e) not attempt to access any systems, programs or data of Lytx that are not licensed under this Agreement; (f) not copy, reproduce, republish, upload, post, transmit or distribute the Software or Services, or any portion thereof, or facilitate or permit a third party to do so; and (g) not use any device or software to interfere or attempt to interfere with the proper operation of the Software and Services. Lytx may immediately terminate this Agreement in the event that Client breaches the provisions of this Section 7.3.

7.4 Retained Rights. Except for the limited licenses granted to Client herein, this Agreement does not confer or transfer to Client any right, title or interest in or to the Software, Documentation, or any intellectual property rights relating thereto; Lytx and its licensors retain all right, title and interest in and to the foregoing. Client for itself, and on behalf of each employee designated by Client to use the Software (an "**End User**"), agrees to keep all items to which Lytx or any of its licensors retains title free and clear of all claims, liens and encumbrances except those of Lytx or its licensors, and any act of Client or End User, voluntary or otherwise, purporting to create a claim, lien or encumbrance on any such item is void.

## 8. LIMITED WARRANTY

8.1 Product Warranty. For a period of two (2) years after the date of shipment with respect to VERs (or such longer period as specified in an applicable Purchase Order) (the "**Warranty Period**"), Lytx warrants to Client that the VERs, as delivered by Lytx to Client, will substantially conform to the Documentation. The Warranty Period shall be extended for the duration of any period for which Client purchases an extended warranty from Lytx as specified in an applicable Purchase Order. The foregoing warranty shall not apply if Client fails to notify Lytx in writing of such defects prior to the expiration of the Warranty Period, if the defect is not reproducible, or the defect is caused by: (a) Client's or its representative's negligence, misuse, neglect or intentional acts or omissions; (b) any accident, alteration, repair or improper testing in any respect by a party other than Lytx or its representatives; (c) any other events beyond Lytx's reasonable control; (d) to the extent performed by Client or its representatives, the failure to install, maintain or use the VER in accordance with the Documentation and Lytx's instructions; (e) except as authorized by Lytx in writing, any attempt to service the VER other

than by Lytx or its representatives; or (f) third party software, hardware, or materials not approved or supplied by Lytx. Lytx shall not be responsible for any of Client's or a third party's software, information or data contained in, stored on, or integrated with any VER returned to Lytx pursuant to the foregoing warranty. Lytx's and its licensors', suppliers', subcontractors' and distributors' sole liability, and Client's exclusive remedy, under this Section 8.1 shall be, at Lytx's option: (i) to use commercially reasonable efforts to correct any reproducible defects identified by Client in writing during the Warranty Period which renders the VER non-conforming, (ii) to replace the defective VER (with either a new or refurbished product), or (iii) to accept return of the defective VER from Client and provide Client with a pro rata refund based on the remaining portion of the Warranty Period. Replacement VERs will assume the greater of the balance of the original Warranty Period or ninety (90) days. With respect to any hardware parts or software provided hereunder other than the VERs, Client acknowledges and agrees that its use and possession of such product shall be governed by the terms of such product manufacturer's warranty, if any, and Client may look to the third party manufacturer with respect to all applicable claims, and Lytx (to the extent it has the right) hereby grants Client a right to share in and enforce warranties made by any such manufacturer. Lytx has no obligation to provide maintenance and support for out-of-warranty VERs.

8.2 Warranty Claims. To make a return under the warranties in this Section 8, Client must first contact Lytx Technical Support and assist in a reasonable troubleshooting effort to restore the VER to service. Upon a failure determination by Lytx Technical Support, provided Client requests a Return Material Authorization number (RMA) within the Warranty Period, Lytx will provide Client an RMA number and a prepaid return label. For all warranty returns, Client must use the return label provided by Lytx to send the VER to Lytx, packaged appropriately for safe shipment. Lytx shall pay all freight charges for shipment to Client of any replacement VER covered by these warranty provisions. Prior to making any warranty return, Client shall be responsible for downloading any Data from the Product that Client desires to retain. Lytx's practice is to delete the Data on the Product in connection with receipt of a warranty return, and Lytx disclaims all liability relating to Client's loss of Data in connection therewith.

8.3 Service Warranty. Lytx warrants to the Client that any Services to be performed hereunder shall be performed in a professional and workmanlike manner. Lytx's and its licensors', suppliers', subcontractors', and distributors' sole liability, and Client's exclusive remedy, under this Section 8.3 shall be for Lytx to use commercially reasonable efforts to re-perform the Services. With respect to installation services provided hereunder, the foregoing warranty shall apply solely for the one (1)-year period after installation. Lytx shall retain sole control over the manner and means by which it performs its obligations hereunder, and Lytx shall be entitled to subcontract (in whole or in part) Lytx's responsibilities under this Agreement to a third party of Lytx's choice, but Lytx shall remain responsible for Lytx's subcontractor's actions in carrying out Lytx's obligations under this Agreement. The foregoing service warranty is conditioned upon normal maintenance and use in conformity with instructions furnished by Lytx from time to time and the Products not having been subjected to misuse, neglect, or accident or alteration, repair or improper testing in any respect by a party other than Lytx or its representatives.

8.4 Disclaimer of Warranty. THE LIMITED EXPRESS WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY; AND EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 8 AND SECTION 12 LYTX AND ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS, AND DISTRIBUTORS DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR

PURPOSE. LYTX AND ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS AND DISTRIBUTORS MAKE NO WARRANTY THAT THE SOFTWARE WILL WORK IN COMBINATION WITH ANY HARDWARE OR SOFTWARE PRODUCTS PROVIDED BY THIRD PARTIES, THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, THAT ALL DEFECTS IN THE SOFTWARE CAN BE CORRECTED, OR THAT ANY SPECIFIC RESULT OR OUTCOME WILL BE ACHIEVED BY UTILIZING THE PRODUCTS OR SERVICES. FURTHER, NEITHER LYTX, ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS NOR DISTRIBUTORS MAKE ANY WARRANTY THAT ACCESS TO THE SERVICES OR ASSOCIATED NETWORK COVERAGE (E.G. WIRELESS NETWORK COVERAGE) WILL BE CONTINUOUS OR UNINTERRUPTED. CLIENT ACKNOWLEDGES AND AGREES THAT THE VER AND ASSOCIATED SERVICES ARE A DRIVER AID ONLY. THEY ARE NOT A SUBSTITUTE FOR A SAFE, CONSCIENTIOUS DRIVER. THEY CANNOT COMPENSATE FOR A DRIVER THAT IS DISTRACTED, INATTENTIVE OR IMPAIRED BY FATIGUE, DRUGS OR ALCOHOL. WHETHER THE VER IS IN USE OR NOT, THE DRIVER IS RESPONSIBLE TO AVOID A COLLISION. CLIENT'S DRIVERS SHOULD NEVER WAIT FOR THE VER TO PROVIDE A WARNING BEFORE TAKING MEASURES TO AVOID AN ACCIDENT. FAILURE TO DO SO CAN RESULT IN SERIOUS PERSONAL INJURY OR DEATH OR SEVERE PROPERTY DAMAGE, AND LYTX DISCLAIMS ANY AND ALL LIABILITY RELATING TO ANY SUCH ACTIONS. CLIENT SHALL DEFEND, INDEMNIFY AND HOLD LYTX AND ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES HARMLESS FROM ALL DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) RELATING TO THE ACTION OR INACTION OF CLIENT'S DRIVERS.

## 9. CELLULAR CONNECTIVITY

LYTX'S ABILITY TO PROVIDE SERVICES IS SUBJECT TO AVAILABILITY OF CELLULAR CONNECTIVITY TO THE PRODUCT. CLIENT ACKNOWLEDGES THAT SERVICE IS MADE AVAILABLE ONLY WITHIN THE OPERATING RANGE OF THE NETWORKS AND LYTX'S SERVICE AREA. SERVICE MAY BE TEMPORARILY REFUSED, INTERRUPTED, OR LIMITED BECAUSE OF: (A) FACILITIES LIMITATIONS; (B) TRANSMISSION LIMITATIONS CAUSED BY ATMOSPHERIC, TERRAIN, OTHER NATURAL OR ARTIFICIAL CONDITIONS ADVERSELY AFFECTING TRANSMISSION, WEAK BATTERIES, SYSTEM OVERCAPACITY, MOVEMENT OUTSIDE A SERVICE AREA OR GAPS IN COVERAGE IN A SERVICE AREA AND OTHER CAUSES REASONABLY OUTSIDE OF CARRIER'S CONTROL SUCH AS, BUT NOT LIMITED TO, INTENTIONAL OR NEGLIGENT ACTS OF THIRD PARTIES THAT DAMAGE OR IMPAIR THE NETWORK OR DISRUPT SERVICE; OR (C) EQUIPMENT MODIFICATIONS, UPGRADES, RELOCATIONS, REPAIRS, AND OTHER SIMILAR ACTIVITIES NECESSARY FOR THE PROPER OR IMPROVED OPERATION OF SERVICE.

CARRIER PARTNER NETWORKS ARE MADE AVAILABLE AS-IS AND CARRIER AND LYTX MAKE NO WARRANTIES OR REPRESENTATIONS AS TO THE AVAILABILITY OR QUALITY OF ROAMING SERVICE PROVIDED BY CARRIER PARTNERS, AND NEITHER CARRIER NOR LYTX WILL BE LIABLE IN ANY CAPACITY FOR ANY ERRORS, OUTAGES, OR FAILURES OF CARRIER PARTNER NETWORKS.

CLIENT UNDERSTANDS AND AGREES THAT IT: (a) HAS NO CONTRACTUAL RELATIONSHIP WITH THE UNDERLYING WIRELESS SERVICE CARRIER, (b) IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN LYTX AND THE UNDERLYING CARRIER, (c) THAT THE UNDERLYING CARRIER HAS NO LIABILITY OF ANY KIND TO CLIENT, WHETHER FOR BREACH OF CONTRACT, WARRANTY,

NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, (d) THAT DATA TRANSMISSIONS MAY BE DELAYED, DELETED OR NOT DELIVERED, (e) THE UNDERLYING CARRIER CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE SERVICES.

## 10. LIMITATION OF LIABILITY

EXCEPT FOR BODILY INJURY, EITHER PARTY'S BREACH OF SECTIONS 7 OR 15, IN NO EVENT WILL EITHER PARTY (WHICH IN LYTX'S CASE INCLUDES ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS AND DISTRIBUTORS) BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, USE, OR COST OF SUBSTITUTE PROCUREMENT, INCURRED BY EITHER PARTY OR ANY THIRD-PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE. IN NO EVENT WILL LYTX OR ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS OR DISTRIBUTORS BE LIABLE IN CONTRACT, TORT OR OTHERWISE FOR ANY AMOUNTS EXCEEDING THOSE ACTUALLY PAID BY CLIENT TO LYTX UNDER THIS AGREEMENT DURING THE THIRTY-SIX (36) MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION ACCRUES.

## 11. CONFIDENTIALITY; CLIENT DATA

11.1 Confidential Information. During the term of this Agreement, each party (a "**Disclosing Party**") may provide the other party (a "**Receiving Party**") with confidential and/or proprietary materials and information ("**Confidential Information**"). All materials and information provided by Disclosing Party to Receiving Party shall be considered Confidential Information. Receiving Party shall maintain the confidentiality of the Confidential Information and shall not disclose such information to any third party without the prior written consent of Disclosing Party. Receiving Party shall only use the Confidential Information internally for the purposes contemplated hereunder. At any time, upon Disclosing Party's request, Receiving Party shall return to Disclosing Party or destroy all of Disclosing Party's Confidential Information in its possession, including, without limitation, all copies and extracts thereof. Notwithstanding the foregoing, Lytx's only obligations with respect to destruction of Data shall be to comply with Lytx's standard Data retention policies. Notwithstanding the foregoing, Receiving Party may disclose Confidential Information to any third party to the limited extent necessary to exercise its rights, or perform its obligations, under this Agreement; provided that, all such third parties are bound in writing by obligations of confidentiality and non-use at least as protective of the Disclosing Party's Confidential Information as this Agreement. In the event that Receiving Party is requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any Confidential Information of Disclosing Party, Receiving Party shall provide Disclosing Party with prompt notice of any such request or requirement (unless prohibited by law from doing so) so that Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained, Receiving Party agrees to furnish only that portion of the Confidential Information for which Disclosing Party has waived compliance or for which Receiving Party is required to furnish by law, rule, regulation or court order.

11.2 Limitations. The obligations contained in this Section 11 shall not apply to information that: (a) is or becomes generally known to the public through no act or omission of the Receiving

Party; (b) was in the Receiving Party's lawful possession prior to the disclosure and was not obtained by the Receiving Party either directly or indirectly from the Disclosing Party; (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information; or (e) is required to be disclosed under the Illinois Freedom of Information Act.

11.3 Client Data. As between Lytx and Client, Client shall own the information, data and content captured by the Products in Client's possession or otherwise provided by Client to Lytx in connection with Lytx's provision of the Services ("Data"). The Data will be Client's Confidential Information; provided that, Lytx and its subcontractors shall have the right to use such Data in connection with performance of Services hereunder and to improve and expand Lytx's products and services. Lytx shall have the right (which shall survive termination and expiration of this Agreement) to use and disclose the non-video and non-audio meta-data components of the Data for any lawful purposes; provided that, Lytx does not indicate to any third party that such components were provided by, obtained from, or associated with, the Client or Client's drivers. Such usage rights shall continue and survive destruction of any video clips to which such non-video and non-audio meta-data components relate.

11.4 Warranty and Representation by Client. Client represents and warrants that (a) it has the necessary right and authority to disclose all data and information (including Data) disclosed or provided to Lytx under this Agreement; and (b) any Data disclosed by Client, as well as any other content created or stored in Lytx servers by Client in the course of using the Services will comply with all applicable laws, and will not infringe the copyright, trade secret, privacy, publicity, or other rights of any third party. Further, to the extent Client provides Lytx feedback hereunder, Client hereby assigns to Lytx any and all intellectual property and proprietary rights in such know-how, processes, enhancements, modifications or adaptations and other intellectual property, which Client or someone on Client's behalf creates, develops, conceives or first reduces to practice, based on the Products, Services, Documentation, or Lytx's Confidential Information.

## 12. INFRINGEMENT INDEMNITY

12.1 Lytx's Indemnity. Lytx shall defend, indemnify and hold Client and its officers, directors, agents and employees harmless from all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) awarded to a third party and resulting from infringement by the Products of any U.S. patent or copyright issued as of the date of this Agreement; provided that, Lytx is promptly notified of all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over their defense and settlement (provided that failure to give such notice shall not limit Lytx's indemnity obligation hereunder except to the extent that the delay in giving, or failure to give, the notice adversely affects Lytx's ability to defend against such claim). Lytx shall not be responsible for any settlement it does not approve in writing.

12.2 Alternatives. If a Product becomes, or in Lytx's sole opinion is likely to become, the subject of an infringement claim or action, Lytx may in its discretion: (a) procure for Client the right to continue using the Product; (b) replace or modify the Product so as to be free from infringement; or (c) accept return of the Product and refund the payments paid by Client for such Product less a reasonable amount for use and damage.

12.3 Limitations. Notwithstanding the provisions of Section 12.1 above, Lytx has no liability to Client for (a) the combination of the Products with software, hardware or other materials not supplied or approved in writing by Lytx for use with the Products; (b) the activities of Client, after Lytx has notified Client in writing that such activities may result in such

infringement; (c) use or operation of the Products other than in strict accordance with the applicable Documentation or Lytx's instructions; or (d) the modification of the Products, or any part thereof, unless such modification was made or recommended by Lytx, where such infringement would not have occurred but for such modifications. Client shall indemnify and hold Lytx harmless from and against all damages, liabilities, costs and expenses (including, without limitation, attorneys' fees) related to a claim of infringement or misappropriation excluded from Lytx's indemnity obligation by the immediately preceding sentence; provided that, Client is promptly notified of all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over their defense and settlement (provided that failure to give such notice shall not limit Client's indemnity obligation hereunder except to the extent that the delay in giving, or failure to give, the notice adversely affects Client's ability to defend against such claim). Client shall not be responsible for any settlement it does not approve in writing.

12.4 Entire Liability. THE FOREGOING PROVISIONS OF THIS SECTION 12 STATE LYTX'S ENTIRE LIABILITY, AND CLIENT'S EXCLUSIVE REMEDY, RELATING TO ANY ALLEGED OR ACTUAL INTELLECTUAL PROPERTY INFRINGEMENT BY THE PRODUCTS OR ANY PART THEREOF.

## 13. GENERAL INDEMNITY

Each party shall indemnify and hold the other party harmless from and against all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) arising from or related to the indemnifying party's breach of Sections 3, 7, 11 or 15; provided that, the indemnifying party is promptly notified of all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over their defense and settlement (provided that failure to give such notice shall not limit the indemnifying party's indemnity obligation hereunder except to the extent that the delay in giving, or failure to give, the notice adversely affects the indemnifying party's ability to defend against such claim). The indemnifying party shall not be responsible for any settlement it does not approve in writing.

## 14. FORCE MAJEURE

Neither party shall be liable under this Agreement because of any failure or delay in the performance of its obligations (except for payment of money) on account of strikes, shortages, riots, fire, flood, storm, earthquake, epidemic, or pandemic, acts of God, hostilities, or any other cause beyond its reasonable control.

## 15. COMPLIANCE WITH LAWS

Each party shall comply with all applicable laws and regulations, including, without limitation: the U.S. Foreign Corrupt Practices Act, all laws relating to data privacy and the use of information provided by the Client to Lytx hereunder, international communications, and the transmission of technical or personal data, and all export laws and restrictions and regulations of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or other United States or foreign agency or authority. Client shall not export, or allow the export or re-export of any Product in violation of any such restrictions, laws or regulations. Client shall obtain and bear all expenses relating to any necessary licenses, permits, and/or exemptions and any duties and fees with respect to the export from the U.S. of all Products to any location and shall demonstrate to Lytx compliance with all applicable laws and regulations prior to delivery thereof by Lytx.

## 16. TRADENAMES AND TRADEMARKS

This Agreement does not grant to any party a license to use any trademark, trade name or logo of the other party, and each party recognizes that the trademarks, trade names and logos of the

other party represent valuable assets of that party and that substantial recognition and goodwill are associated with such trademarks, trade names and logos. Each party hereby agrees that it shall not use or permit any third party to use, at any time, the other party's trademarks, trade names or logos, without prior written consent of the other party.

**17. GENERAL TERMS**

Lytix is an independent contractor under this Agreement. Nothing in this Agreement creates a partnership, joint venture, or agency relationship between the parties. Except as otherwise set forth herein, all notices under this Agreement shall be in writing, and shall be deemed given when personally delivered, when sent by courier with confirmed receipt, or three (3) days after being sent by prepaid certified or registered U.S. mail to the address of the party as set forth herein or such other address as such party last provided to the other by written notice. Neither this Agreement nor any rights or obligations arising hereunder may be assigned, transferred or sublicensed by Client, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Lytx. Any attempted transfer, assignment or delegation without such consent shall be null and void, and Client shall remain liable to Lytx for all obligations hereunder. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and permitted assigns, and shall not be enforceable by or inure to the benefit of any third party.

The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. The terms of this Agreement shall apply to all proposals, quotations, acknowledgements, acceptance forms

and invoices submitted by Lytx to Client for the sale of Products and Services, to all related purchase orders, revisions, order releases and/or similar documents received by Lytx from Client for the purchase of Products, and to all Products and Services sold by Lytx. Any attempt to vary in any degree this Agreement, or any Purchase Order entered into hereunder, are hereby objected to and rejected unless expressly agreed otherwise by the parties in writing. This Agreement, including the addendums and Purchase Orders incorporated hereunder, contains the entire agreement between the parties with respect to the subject matter hereof. This Agreement expressly supersedes all prior proposals, agreements, negotiations, discussions, understandings or conditions (whether oral or written) between or among the parties regarding the same, including all descriptions, and illustrations of the Products in catalogues, brochures, and price lists provided by Lytx, and all past dealing or industry custom. No changes, modifications or waivers are to be made to this Agreement unless evidenced in writing and signed for and on behalf of both parties. In the event that any provision of this Agreement shall be determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without regard to the conflicts of laws provisions thereof. The U.N. Convention on the International Sale of Goods shall not apply. Any action or proceeding arising from or relating to this Agreement must be brought in a state or federal court in the State of Illinois, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

**THE PARTIES HEREBY AGREE TO THE FOREGOING TERMS AND CONDITIONS:**

**LYTX, INC.**

DocuSigned by:  
*Shelley Bennett*  
Authorized Signature

Name: Shelley Bennett  
Title: General Counsel  
Date: 9/23/2021 | 2:22:14 PM PDT

**Village of Downers Grove**

Authorized Signature  
\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## VIDEO SUBSCRIPTION SERVICE OFFERING ADDENDUM

This Addendum shall apply to all purchases of Managed Services under the Agreement.

### 1. SUBSCRIPTION SERVICES

1.1 Description of Managed Services. Lytx shall provide Client remote access to Lytx's data center via in-bound internet connectivity, providing access to Client's Data and the hosted Software applications licensed hereunder in order to view and download driving videos captured by Client's VERs, and any related reports and assessments provided by Lytx, to the extent purchased hereunder. Lytx shall provide remote program management services whereby Lytx shall: (i) monitor the cellular connectivity to the VERs; and (ii) monitor Client's Managed Services' key performance indicators. Managed Services are available for use with auxiliary cameras and APIs to the extent supported by Lytx. Certain functionality is dependent on VER model used by Client. Lytx retains the right, in its sole discretion, to update the Product firmware and functionality and adjust the Product settings, including, but not limited to, video clip length, video compression, sensitivity of Product accelerometers and sensors, file upload and download size limits, and length of session periods, as determined by Lytx to be necessary to provide the Managed Services hereunder and to comply with applicable laws.

1.2 Usage Calculations. Video browse time is measured by time spent browsing video on Client VER. Video upload time is measured by length of minutes of video uploaded to Lytx data center from Client VER. Live stream time is measured by time spent live streaming video from Client VER. The number of minutes of video browsed, live-streamed, or uploaded will be calculated based on the number of views recorded (e.g., if a minute of video is uploaded from each of 4 camera views, that is considered 4 minutes for purposes of Client's minutes usage calculation hereunder). Total minutes are pooled and usage is determined by Lytx. Any unused minutes are forfeited at the end of each month. If the minutes cap is reached in a given month, Lytx has the right to suspend video access service for the remainder of the month unless or until Client purchases additional minutes.

1.3 Remote Access to Results. Subject to Client's compliance with the terms and conditions of the Agreement and this Addendum, Client shall have remote in-bound internet access to the Data which are hosted on computer hardware servers controlled by Lytx. To access such Data remotely, Client will be assigned user accounts and related user identification credentials (collectively, "User IDs") and passwords. Client shall be responsible for determining and designating which employees of Client (each, an "End User") receive permissions to remotely access such Data; provided, that, by using the Services, Client and such End User agree to the terms of use posted on the website used to access the Services (currently, <https://login.lytx.com>). Client may have only as many End Users as the number of User IDs activated at any one time. No User ID may be shared by more than one End User. Client understands that sharing of User IDs and passwords can jeopardize the security of Client Data. Client acknowledges that Lytx may track the number of active User IDs and to disallow use by more than the authorized number of User IDs.

1.4 Client Configurations. Client assumes all responsibility for choosing and maintaining the client configurations utilized by Client in connection with the Products and Managed Services, including, without limitation, permission hierarchies and any client-managed settings, and Lytx expressly disclaims any and all liability for any damages resulting therefrom.

1.5 Subscription Services; Suspension. Subject to Client's compliance with the terms and conditions of the Agreement, Lytx shall provide the subscription Services to Client. If Client fails to

pay any amounts due hereunder, Lytx may suspend the subscription Services only after providing the Client with 15 days' written notice.

### 2. SUBSCRIPTION TERMINATION

Each Subscription Term shall automatically renew for additional successive one (1) year periods, unless written notice of non-renewal is received by the other party no later than sixty (60) days prior to the expiration of the then current Subscription Term. To the extent Client is required to execute a written extension in connection with such auto-renewal, Client shall provide Lytx the renewal form for execution. If Client terminates a portion of its subscriptions, Client must remove the corresponding number of VERs from its use such that the total number of VERs is no larger than the number of valid subscriptions.

### 3. TECHNICAL SUPPORT

Lytx shall use commercially reasonable efforts to provide technical support via email at [support@lytx.com](mailto:support@lytx.com) and a toll-free customer support line at (866) 910-0403. For security reasons, Client shall provide Lytx in writing the name(s) and contact information of Client's technical personnel who will liaison with Lytx regarding all technology-related matters. Client may update such information as necessary upon written notice to Lytx. Lytx shall not be obligated to provide support to any person other than the designated liaison(s). In order to receive support from Lytx, Client shall provide Lytx with all information necessary for Lytx to trouble shoot technical errors experienced by Client with respect to Lytx's provision of Products hereunder. Client agrees to provide Lytx with reasonable access (including, without limitation, remote access) to all necessary Client personnel, facilities and equipment (including the Products) for the purpose of providing the support services hereunder.

### 4. SERVICE REQUIREMENTS

Use of a computer and internet connectivity is necessary to use Services, and Client is solely responsible for obtaining such items and paying all fees related thereto. Client agrees to access and use the Licensed Software and Services in accordance with any and all operating instructions or procedures that may be issued by Lytx, and amended by Lytx from time to time. Lytx shall have no obligation to provide subscription Services with respect to Products that are not procured by Client from Lytx or its authorized distributors and resellers.

### 5. VIDEO CLIP RETENTION POLICY

Lytx's Video Clip Retention Policy, which shall apply with respect to the Agreement and may be updated by Lytx at any time upon written notice to Client, is as follows: Video uploaded to the Lytx data center shall be available online for ninety (90) days and then stored on backup media and no longer available online. Lytx will charge its standard fee on a per-event basis to retrieve any video file from backup storage. Backups will be stored for the remaining portion of one (1) year (approximately 275 days). At that time, the stored video will be deleted.

### 6. DATA CAPTURE

Lytx makes no representation or warranty with respect to the Data captured. Client acknowledges that factors such as camera angle, view obstruction, power supply, device failure, and other conditions can result in data loss, and Lytx disclaims all liability relating to Client's loss of Data in connection therewith.

**ADDENDUM B TO THE MASTER PURCHASE AGREEMENT BETWEEN LYTX, INC. AND VILLAGE OF  
DOWNERS GROVE**

**The following terms shall apply to the Master Purchase Agreement effective upon signature  
between Lytx, Inc. ("Provider") and the Village of Downers Grove ("Village"):**

**A. COPYRIGHT/PATENT INFRINGEMENT**

The Provider agrees to indemnify, defend, and hold harmless the Village against any suit, claim, or proceeding brought against the Village for alleged use of any equipment, systems, or services provided by the Provider that constitutes a misuse of any proprietary or trade secret information or an infringement of any patent or copyright.

**B. CAMPAIGN DISCLOSURE**

Provider shall execute the Campaign Disclosure Certificate, attached hereto as Exhibit A.

**C. PATRIOT ACT COMPLIANCE**

The Provider represents and warrants to the Village that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Provider further represents and warrants to the Village that the Provider and its principals, shareholders, members, partners, or affiliates, as applicable are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Provider hereby agrees to defend, indemnify and hold harmless the Village, and its elected or appointed officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorney's fees and costs) arising from or related to any breach of the foregoing representations and warranties.

**D. NONDISCRIMINATION**

Provider shall, as a party to a public contract:

- (a) Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- (b) The Provider certifies that it is an "equal opportunity employer" as defined by Section 2000(e) of Chapter 21, Title 42, U.S. Code Annotated and Executive Orders #11246 and #11375, which are incorporated herein by reference. The Equal Opportunity clause, Section 6.1 of the Rules and Regulations of the Department of Human Rights of the State of Illinois, is a material part of any contract awarded on the basis of this proposal.

It is unlawful to discriminate on the basis of race, color, sex, national origin, ancestry, age, marital status, physical or mental handicap or unfavorable discharge for military service. Provider shall comply with standards set forth

in Title VII of the Civil Rights Act of 1964, 42 U.S.C. Secs. 2000 et seq., The Human Rights Act of the State of Illinois, 775 ILCS 5/1-101 et. seq., and The Americans With Disabilities Act, 42 U.S.C. Secs. 12101 et. seq.

**E. SEXUAL HARASSMENT POLICY**

The Provider, as a party to a public contract, certifies that is has a written sexual harassment policy.

**F. EQUAL EMPLOYMENT OPPORTUNITY**

In the event of the Provider's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Provider may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the Contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Contract, the Provider agrees as follows:

That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, sexual orientation, sexual identity or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

That, if it hires additional employees in order to perform this Contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military services.

That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Provider's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Provider in its efforts to comply with such Act and Rules and Regulations, the Provider will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

That it will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.

That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purpose of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.

That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subProvider. In the same manner as with other provisions of this contract, the Provider will be liable for compliance with applicable provisions of this clause by such subProviders; and further it will promptly notify the contracting agency and the Department in the event any subProvider fails or refuses to comply therewith. In addition, the Provider will not utilize any subProvider declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivision or municipal corporations.

#### **G. DRUG FREE WORK PLACE**

Provider, as a party to a public contract, certifies that it has a drug free workplace policy and agrees that it will provide a drug free workplace.

#### **H. INSURANCE**

The Provider shall be required to obtain, from a company or companies lawfully authorized to do business in the jurisdiction in which the project is located, such general liability insurance which, at a minimum, will protect the Provider from the types of claims set forth below which may arise out of or result from the Provider's operations under this Contract and for which the Provider may be legally liable:

Claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to the operation to be performed;

Claims for damages resulting from bodily injury, occupational sickness or disease, or death of the Provider's employees;

Claims for damages resulting from bodily injury, sickness or disease, or death of any person other than the Provider's employees;

Claims for damages insured by the usual personal injury liability coverage which are sustained: (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Provider, or (2) by another person;

Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;

Claims for damages as a result of professional or any other type of negligent action by the Provider or failure to properly perform services under the scope of the agreement between the Provider and the Village.

The Provider shall demonstrate having insurance coverage for a minimum of \$2 million for professional liability (errors and omissions).

As evidence of said coverages, Provider shall provide the Village with certificates of insurance naming the Village of Downers Grove as an additional insured and include a provision for cancellation only upon at least 30 days prior notice to the Village.

**I. COOPERATION WITH FOIA COMPLIANCE**

Provider acknowledges that the Freedom of Information Act may apply to public records in possession of the Contractor or a subcontractor. Contractor and all of its subcontractors shall cooperate with the Village in its efforts to comply with the Freedom of Information Act. 5 ILCS 140/1 *et seq.*

**EXHIBIT A CAMPAIGN DISCLOSURE CERTIFICATE**

The Campaign Disclosure Certificate is required pursuant to the Village of Downers Grove Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the Village Council.

Said Campaign Disclosure Certificate requires any individual or entity bidding to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the Village Council within the five (5) year period preceding the date of the bid or proposal release.

Provider agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any Village Council member and any challengers seeking to serve as a member of the Downers Grove Village Council.

\_\_\_\_\_

Under penalty of perjury, I declare:

Provider has not contributed to any elected Village position within the last five (5) years.

DocuSigned by:  
*Shelley Bennett*  
8BE908A7FA084B3...

Shelley Bennett  
\_\_\_\_\_

Signature

Print Name

Provider has contributed a campaign contribution to a current member of the Village Council within the last five (5) years.

Print the following information:

Name of Contributor: \_\_\_\_\_

(company or individual)

To whom contribution was made: \_\_\_\_\_

Year contribution made: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

\_\_\_\_\_

Signature

Print Name



## MASTER PURCHASE AGREEMENT

This Master Purchase Agreement (“**Agreement**”) is entered into as of the date executed by both parties as specified on the signature page hereto (“the “**Effective Date**”) by and between Lytx, Inc., a Delaware corporation, with its principal place of business at 9785 Towne Centre Drive, San Diego, California, 92121 U.S.A. (“**Lytx**”), and Village of Downers Grove, with its principal place of business at 5101 Walnut Ave., Downers Grove, IL, 60515 United States (“**Client**”).

**WHEREAS**, Lytx develops, markets, sells and provides driving performance management products and related services focused on improving driver safety and compliance, and reducing operating costs for commercial fleets;

**WHEREAS**, Client desires to receive, and Lytx agrees to provide Client, such products and services as specified herein;

**NOW, THEREFORE**, the parties agree as follows:

### 1. CERTAIN DEFINITIONS

“**Affiliate**” means, with respect to any Person, any other Person that is in control of, controlled by or under common control with such first Person.

“**Documentation**” means the written Software and Hardware related specifications Lytx provides to Client hereunder.

“**Fees**” means the prices and fees set forth in a Purchase Order that are established by Lytx and charged to Client for the Products and Services. Lytx’s published prices, if any, are subject to change without notice.

“**Hardware**” means Lytx’s VERs, Lytx Hub Adaptor and other hardware provided to Client hereunder.

“**Person**” means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or agency or instrumentality thereof.

“**Product(s)**” means the Software and Hardware together.

“**Purchase Order**” means a written purchase quote document prepared by Lytx, signed by an authorized representative of Client and accepted by Lytx, but only to the extent the document identifies the following: the Products and Services to be purchased, the quantity for each Product, the Fees, the delivery location for the Products (if applicable), the Subscription Term, any extended warranty, and Client’s billing address.

“**Services**” means the services Lytx makes available to Client under this Agreement, as more fully described in the applicable Service Offering Addendum(s) of this Agreement and/or the applicable Purchase Order(s).

“**Software**” means any software (in machine executable object code format only, if applicable) provided to Client under this Agreement, including, without limitation, the operating software embedded in the Hardware, installation tool software, event player software, access to the web-based client portal to access Client’s Lytx account and any other software made available by Lytx on a website hosted by or on behalf of Lytx for use by Client.

“**Subscription Term**” means the duration of time set forth on a Purchase Order for which the Client has purchased a subscription to certain Services specified in the Purchase Order.

“**Taxes**” shall mean sales, excise, use, value-added, or other similar taxes for which Lytx is obligated to collect from Client, as well as any increase in the Product manufacturing or materials costs where caused by taxes, excises, duties or other charges of any kind (or increase in the same), or any such levy of any kind on the sale, import, delivery to or the use by Client, imposed by

any national, state or municipal government, or any agency or political subdivision thereof.

“**VER**” means a Lytx video event recorder of the make and model specified in the applicable Purchase Order and may be comprised of more than one component.

### 2. SCOPE

2.1 **Contract Documents.** This Agreement consists of the following documents, as may be amended from time to time as provided herein:

This Agreement;

Service Offering Addendum(s) (and any schedules thereto); and

Purchase Orders, if applicable.

In the event of any conflict between the provisions of the above listed documents, unless expressly stated otherwise, the documents shall control in the following order: this Agreement first; the applicable Service Offering Addendum(s) second; any schedules to such Addendum(s) third; and a Purchase Order fourth.

2.2 **Product Sale and Purchase.** Subject to the terms and conditions of this Agreement, Lytx shall sell to Client and Client shall purchase from Lytx the Products and Services specified in a Purchase Order accepted by Lytx. Subject to Lytx’s receipt of Client’s prior written consent, which shall not be unreasonably withheld, Lytx may, for reasons of availability, substitute alternative associated Hardware (but not VERs) to that specified in a Purchase Order; provided that such alternative Hardware is functionally the same, in all material respects, as the ordered Hardware. Any subscription Services include online standard report creation capabilities only. If Client requests additional or specialized reports and/or programming, Client shall pay Lytx additional fees as mutually agreed by the parties.

### 3. ORDERS; DELIVERY; IMPLEMENTATION

3.1 **Order; Acceptance; Change.** Client shall initiate all purchases under this Agreement by submitting Purchase Orders to Lytx, which are subject to Lytx’s acceptance. Upon acceptance by Lytx, all Purchase Orders are binding and non-cancelable, except that Purchase Orders may be canceled, rescheduled, or amended with Lytx’s prior written approval and subject to payment of any additional fees mutually agreed by Lytx and Client.

3.2 **Delivery.** All items shall be delivered to the carrier F.C.A. Lytx’s designated shipping place. With respect to Hardware purchased hereunder, title to the Products (excluding title to the Software) will pass to Client upon Lytx’s delivery to the carrier. With respect to any Hardware provided on a usage basis

hereunder, title to the Products shall remain at all times with Lytx. Unless otherwise instructed in writing by Client in the Purchase Order, Lytx shall select the carrier. All freight, insurance, and other shipping related expenses, including but not limited to Taxes and duties, shall be paid by Client. Within fifteen (15) days after delivery of any Hardware to Client or its designee (including any third party purchaser of Client) hereunder, Client must provide Lytx with written notice of any discrepancy between the applicable Purchase Order and the shipment delivered.

**3.3 Installation of Products.** If installation services are included in a Purchase Order, Lytx shall use commercially reasonable efforts to install the Products. Client shall provide Lytx a safe, designated installation area protected from environmental hazards. Client shall provide Lytx with reasonable cooperation, including, without limitation, accurate information about vehicle types, and access to all necessary Client personnel, facilities and equipment (including the Products) for the purpose of performing its obligations hereunder. Any Lytx installation services provided hereunder shall be subject to a mutually agreed installation schedule. Client shall be responsible for ensuring availability of vehicles and Hardware (subject to supply by Lytx) and access to installation site on agreed installation date, and shall comply with all reasonable instructions related to the installation. No refunds shall apply for Lytx's failure to complete an installation due to vehicle or Hardware unavailability, lack of advance notice of accurate vehicle information, or lack of access to installation site on agreed installation date. If the implementation schedule is delayed, extended or rescheduled at Client's request (in each case, with less than seven (7) days prior written notice to Lytx), Client's failure to provide Lytx access to vehicles, facilities and/or necessary equipment or any other reason caused by Client, Client agrees to reimburse Lytx for any costs (including labor costs, travel, food, lodging, extra shipping fees and other project specific costs) and cancellation fees incurred by Lytx as a result of such change. Client shall be responsible for approving the installation placement and technique on the initial Hardware for each major vehicle type (First Article Installation), including compliance with applicable laws. Such approval shall constitute authorization for Lytx to proceed with installation of remaining Hardware using the Client-approved placement and technique. If installation services are not purchased by Client hereunder, Client assumes any and all liability resulting from such installation of Products, including, without limitation, liability resulting from failure to use a properly trained technician or failure to use proper installation tools. Lytx expressly disclaims any and all responsibility for any damages arising out of improper installation and maintenance of any Hardware not installed by, or on behalf of, Lytx. Client shall defend, indemnify and hold Lytx and its officers, directors, agents, subcontractors and employees harmless from all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from installation or maintenance of the Products by a party other than Lytx or its representatives.

**3.4 Client Assistance and Action Items.** Client shall use commercially reasonable efforts to ensure that all personnel installing or using any Products and/or Services receive appropriate training, are familiar with the Products and the Services, and are qualified to carry out their duties and responsibilities. Client acknowledges and agrees that Lytx's provision of the Services depends on the full and timely cooperation of the Client and its employees, contractors and agents. Client shall, and shall use commercially reasonable efforts to cause its employees, contractors and agents to, comply with all instructions from Lytx relating to deployment of the Products and Services and provide in a timely manner and at no cost to Lytx, assistance, cooperation, information, and feedback, as well as access to Client personnel, data, facilities and equipment, reasonably necessary to enable Lytx to perform its obligations hereunder. Client acknowledges that Lytx's ability to

perform its obligations under this Agreement may be affected if Client does not comply with its obligations under this section.

#### **4. PRICING AND PAYMENTS**

Subject to the terms hereof, Client will pay Lytx the Fees for the Products and Services set forth in the governing Purchase Order and any and all applicable Taxes. Subject to Client establishing and maintaining a credit status satisfactory to Lytx, all Fees will be due and payable in U.S. dollars (or as otherwise specified in a Purchase Order, for sales outside the U.S.), within thirty (30) days after the date indicated on Lytx's invoice(s). Unpaid invoices are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower. Client shall be responsible for all Taxes associated with the Products and Services other than U.S. taxes based on Lytx's net income. Client shall be responsible for all costs and expenses (including without limitation reasonable attorney fees and expenses) incurred by Lytx in connection with any collection actions in which Lytx is the prevailing party. If Client disputes an invoiced amount, it shall deliver written notice thereof to Lytx within fifteen (15) days from its receipt of the invoice and shall also, within thirty (30) days from the date of receipt of the invoice, pay all undisputed portions thereof pending resolution of the disputed amounts. Lytx shall provide Client with any backup or other information which supports the accuracy of the disputed invoice. Upon receipt thereof, Client shall have fifteen (15) days to examine such information and pay Lytx the portion of the disputed invoice that is no longer in dispute. Thereafter, if any dispute remains with respect to an invoiced amount, Client and Lytx shall immediately enter into good faith negotiations to resolve the dispute.

#### **5. COMMENCEMENT; TERMINATION**

This Agreement shall commence on the Effective Date and remain in effect until delivery of all Products and expiration of all Services to be provided hereunder, unless earlier terminated as provided herein. Either party may immediately terminate this Agreement upon written notice if: (i) the other party commits any material breach of this Agreement that is not remedied within thirty (30) days following receipt of written notice thereof from the non-breaching party; (ii) a receiver is appointed for the other party or its assets; (iii) the other party makes a general assignment for the benefit of its creditors; (iv) the other party commences, or has commenced against it, proceedings under any bankruptcy, insolvency, or debtor's relief law, which proceedings are not dismissed within one hundred and twenty (120) days; or (v) the other party is liquidated or dissolved, other than in a corporate reorganization in which the ongoing business of such liquidated or dissolved party shall be continued by substantially the same ownership and management as existed prior to such liquidation or dissolution. All Software licenses granted and all Services provided hereunder shall terminate upon termination or expiration of this Agreement. The following Sections shall survive termination or expiration of this Agreement: 1, 2.1, 4, 6, 7.4, and 8 through 17 (inclusive). Upon termination, any outstanding amounts due hereunder shall be paid to Lytx by Client within thirty (30) days from such termination, and Lytx shall have no obligation to return any undisputed amounts previously paid by Client to Lytx.

#### **6. TRIAL PRODUCTS AND SERVICES**

Any trial Products or Services provided hereunder are provided only for the trial period specified in the applicable Purchase Order. Title to the trial Products shall remain at all times with Lytx. Upon expiration or termination of the trial, Client shall (within thirty (30) days from such expiration or termination) return the trial Products to Lytx in good condition (reasonable wear and tear excepted) or purchase the trial Products or a right to use them.

## 7. SOFTWARE

7.1 License. Subject to the terms of this Agreement, to the extent such Services are purchased hereunder, Lytx grants Client a nonexclusive, nontransferable license to access and use the online web-based portal for the Services for Client's internal fleet management purposes only, without the right to sublicense such rights, provided Client unconditionally agrees to access and use the Software and Services strictly in accordance with the Documentation, any terms of use posted on the Lytx website used to access the Services and this Agreement ("**License**"). Under the License, Client may print out, or otherwise make, printed or electronic copies ("**Copies**") of the reports, numeric results and other information and materials generated from Client's access and use of the Software and Services for internal fleet management purposes only. Any updates, modifications, enhancements or new versions of the Software or Services provided or made available to Client by Lytx, in accordance with this Agreement, shall be considered Software and Services subject to this Agreement. Lytx shall be entitled at any time and without liability to improve, modify, suspend, test, maintain or repair the systems used by Lytx to provide the Services in whole or in part and/or any other services rendered under this Agreement even if this requires temporarily suspending the operation of the Services, provided that Lytx shall use reasonable efforts to minimize all forms of disruption resulting therefrom.

7.2 License Term. Licenses are purchased and apply for the applicable subscription period, including any renewal periods (the "**License Term**"). Licenses relating to Managed Services apply on a per VER basis.

7.3 Restrictions on Use. Except as otherwise expressly provided in this Agreement, Client agrees to: (a) only use the Software and Services in the manner, and for the purposes, expressly specified in this Agreement, and be responsible for utilizing the proper version of any Software; (b) not decompile, disassemble, analyze or otherwise examine the Software and/or Services for the purpose of reverse engineering, or facilitate or permit a third party to do so (except to the extent this restriction is expressly prohibited by applicable law); (c) not delete or in any manner alter any notice, disclaimers or other legends contained in the Software and Services or appearing on any screens, documents, reports, numeric results or other materials obtained by Client through use of the Software and Services ("**Notices**"); (d) reproduce and display all Notices on Copies Client makes, in accordance with this Agreement; (e) not attempt to access any systems, programs or data of Lytx that are not licensed under this Agreement; (f) not copy, reproduce, republish, upload, post, transmit or distribute the Software or Services, or any portion thereof, or facilitate or permit a third party to do so; and (g) not use any device or software to interfere or attempt to interfere with the proper operation of the Software and Services. Lytx may immediately terminate this Agreement in the event that Client breaches the provisions of this Section 7.3.

7.4 Retained Rights. Except for the limited licenses granted to Client herein, this Agreement does not confer or transfer to Client any right, title or interest in or to the Software, Documentation, or any intellectual property rights relating thereto; Lytx and its licensors retain all right, title and interest in and to the foregoing. Client for itself, and on behalf of each employee designated by Client to use the Software (an "**End User**"), agrees to keep all items to which Lytx or any of its licensors retains title free and clear of all claims, liens and encumbrances except those of Lytx or its licensors, and any act of Client or End User, voluntary or otherwise, purporting to create a claim, lien or encumbrance on any such item is void.

## 8. LIMITED WARRANTY

8.1 Product Warranty. For a period of two (2) years after the date of shipment with respect to VERs (or such longer period as specified in an applicable Purchase Order) (the "**Warranty**

**Period**"), Lytx warrants to Client that the VERs, as delivered by Lytx to Client, will substantially conform to the Documentation. The Warranty Period shall be extended for the duration of any period for which Client purchases an extended warranty from Lytx as specified in an applicable Purchase Order. The foregoing warranty shall not apply if Client fails to notify Lytx in writing of such defects prior to the expiration of the Warranty Period, if the defect is not reproducible, or the defect is caused by: (a) Client's or its representative's negligence, misuse, neglect or intentional acts or omissions; (b) any accident, alteration, repair or improper testing in any respect by a party other than Lytx or its representatives; (c) any other events beyond Lytx's reasonable control; (d) to the extent performed by Client or its representatives, the failure to install, maintain or use the VER in accordance with the Documentation and Lytx's instructions; (e) except as authorized by Lytx in writing, any attempt to service the VER other than by Lytx or its representatives; or (f) third party software, hardware, or materials not approved or supplied by Lytx. Lytx shall not be responsible for any of Client's or a third party's software, information or data contained in, stored on, or integrated with any VER returned to Lytx pursuant to the foregoing warranty. Lytx's and its licensors', suppliers', subcontractors' and distributors' sole liability, and Client's exclusive remedy, under this Section 8.1 shall be, at Lytx's option: (i) to use commercially reasonable efforts to correct any reproducible defects identified by Client in writing during the Warranty Period which renders the VER non-conforming, (ii) to replace the defective VER (with either a new or refurbished product), or (iii) to accept return of the defective VER from Client and provide Client with a pro rata refund based on the remaining portion of the Warranty Period. Replacement VERs will assume the greater of the balance of the original Warranty Period or ninety (90) days. With respect to any hardware parts or software provided hereunder other than the VERs, Client acknowledges and agrees that its use and possession of such product shall be governed by the terms of such product manufacturer's warranty, if any, and Client may look to the third party manufacturer with respect to all applicable claims, and Lytx (to the extent it has the right) hereby grants Client a right to share in and enforce warranties made by any such manufacturer. Lytx has no obligation to provide maintenance and support for out-of-warranty VERs.

8.2 Warranty Claims. To make a return under the warranties in this Section 8, Client must first contact Lytx Technical Support and assist in a reasonable troubleshooting effort to restore the VER to service. Upon a failure determination by Lytx Technical Support, provided Client requests a Return Material Authorization number (RMA) within the Warranty Period, Lytx will provide Client an RMA number and a prepaid return label. For all warranty returns, Client must use the return label provided by Lytx to send the VER to Lytx, packaged appropriately for safe shipment. Lytx shall pay all freight charges for shipment to Client of any replacement VER covered by these warranty provisions. Prior to making any warranty return, Client shall be responsible for downloading any Data from the Product that Client desires to retain. Lytx's practice is to delete the Data on the Product in connection with receipt of a warranty return, and Lytx disclaims all liability relating to Client's loss of Data in connection therewith.

8.3 Service Warranty. Lytx warrants to the Client that any Services to be performed hereunder shall be performed in a professional and workmanlike manner. Lytx's and its licensors', suppliers', subcontractors', and distributors' sole liability, and Client's exclusive remedy, under this Section 8.3 shall be for Lytx to use commercially reasonable efforts to re-perform the Services. With respect to installation services provided hereunder, the foregoing warranty shall apply solely for the one (1)-year period after installation. Lytx shall retain sole control over the manner and means by which it performs its obligations hereunder, and Lytx shall be entitled to subcontract (in whole or in part) Lytx's responsibilities under this Agreement to a third party of Lytx's choice, but Lytx shall remain responsible for Lytx's subcontractor's

actions in carrying out Lytx's obligations under this Agreement. The foregoing service warranty is conditioned upon normal maintenance and use in conformity with instructions furnished by Lytx from time to time and the Products not having been subjected to misuse, neglect, or accident or alteration, repair or improper testing in any respect by a party other than Lytx or its representatives.

8.4 Disclaimer of Warranty. THE LIMITED EXPRESS WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY; AND EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 8 AND SECTION 12 LYTX AND ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS, AND DISTRIBUTORS DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. LYTX AND ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS AND DISTRIBUTORS MAKE NO WARRANTY THAT THE SOFTWARE WILL WORK IN COMBINATION WITH ANY HARDWARE OR SOFTWARE PRODUCTS PROVIDED BY THIRD PARTIES, THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, THAT ALL DEFECTS IN THE SOFTWARE CAN BE CORRECTED, OR THAT ANY SPECIFIC RESULT OR OUTCOME WILL BE ACHIEVED BY UTILIZING THE PRODUCTS OR SERVICES. FURTHER, NEITHER LYTX, ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS NOR DISTRIBUTORS MAKE ANY WARRANTY THAT ACCESS TO THE SERVICES OR ASSOCIATED NETWORK COVERAGE (E.G. WIRELESS NETWORK COVERAGE) WILL BE CONTINUOUS OR UNINTERRUPTED. CLIENT ACKNOWLEDGES AND AGREES THAT THE VER AND ASSOCIATED SERVICES ARE A DRIVER AID ONLY. THEY ARE NOT A SUBSTITUTE FOR A SAFE, CONSCIENTIOUS DRIVER. THEY CANNOT COMPENSATE FOR A DRIVER THAT IS DISTRACTED, INATTENTIVE OR IMPAIRED BY FATIGUE, DRUGS OR ALCOHOL. WHETHER THE VER IS IN USE OR NOT, THE DRIVER IS RESPONSIBLE TO AVOID A COLLISION. CLIENT'S DRIVERS SHOULD NEVER WAIT FOR THE VER TO PROVIDE A WARNING BEFORE TAKING MEASURES TO AVOID AN ACCIDENT. FAILURE TO DO SO CAN RESULT IN SERIOUS PERSONAL INJURY OR DEATH OR SEVERE PROPERTY DAMAGE, AND LYTX DISCLAIMS ANY AND ALL LIABILITY RELATING TO ANY SUCH ACTIONS. CLIENT SHALL DEFEND, INDEMNIFY AND HOLD LYTX AND ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES HARMLESS FROM ALL DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) RELATING TO THE ACTION OR INACTION OF CLIENT'S DRIVERS.

## 9. CELLULAR CONNECTIVITY

LYTX'S ABILITY TO PROVIDE SERVICES IS SUBJECT TO AVAILABILITY OF CELLULAR CONNECTIVITY TO THE PRODUCT. CLIENT ACKNOWLEDGES THAT SERVICE IS MADE AVAILABLE ONLY WITHIN THE OPERATING RANGE OF THE NETWORKS AND LYTX'S SERVICE AREA. SERVICE MAY BE TEMPORARILY REFUSED, INTERRUPTED, OR LIMITED BECAUSE OF: (A) FACILITIES LIMITATIONS; (B) TRANSMISSION LIMITATIONS CAUSED BY ATMOSPHERIC, TERRAIN, OTHER NATURAL OR ARTIFICIAL CONDITIONS ADVERSELY AFFECTING TRANSMISSION, WEAK BATTERIES, SYSTEM OVERCAPACITY, MOVEMENT OUTSIDE A SERVICE AREA OR GAPS IN COVERAGE IN A SERVICE AREA AND OTHER CAUSES REASONABLY OUTSIDE OF CARRIER'S CONTROL SUCH AS, BUT NOT LIMITED TO, INTENTIONAL OR NEGLIGENT ACTS OF THIRD PARTIES THAT DAMAGE OR IMPAIR THE NETWORK OR DISRUPT SERVICE; OR (C) EQUIPMENT MODIFICATIONS, UPGRADES, RELOCATIONS, REPAIRS, AND OTHER SIMILAR ACTIVITIES NECESSARY FOR THE PROPER OR IMPROVED

OPERATION OF SERVICE.

CARRIER PARTNER NETWORKS ARE MADE AVAILABLE AS-IS AND CARRIER AND LYTX MAKE NO WARRANTIES OR REPRESENTATIONS AS TO THE AVAILABILITY OR QUALITY OF ROAMING SERVICE PROVIDED BY CARRIER PARTNERS, AND NEITHER CARRIER NOR LYTX WILL BE LIABLE IN ANY CAPACITY FOR ANY ERRORS, OUTAGES, OR FAILURES OF CARRIER PARTNER NETWORKS.

CLIENT UNDERSTANDS AND AGREES THAT IT: (a) HAS NO CONTRACTUAL RELATIONSHIP WITH THE UNDERLYING WIRELESS SERVICE CARRIER, (b) IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN LYTX AND THE UNDERLYING CARRIER, (c) THAT THE UNDERLYING CARRIER HAS NO LIABILITY OF ANY KIND TO CLIENT, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, (d) THAT DATA TRANSMISSIONS MAY BE DELAYED, DELETED OR NOT DELIVERED, (e) THE UNDERLYING CARRIER CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE SERVICES.

## 10. LIMITATION OF LIABILITY

EXCEPT FOR BODILY INJURY, EITHER PARTY'S BREACH OF SECTIONS 7 OR 15, IN NO EVENT WILL EITHER PARTY (WHICH IN LYTX'S CASE INCLUDES ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS AND DISTRIBUTORS) BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, USE, OR COST OF SUBSTITUTE PROCUREMENT, INCURRED BY EITHER PARTY OR ANY THIRD-PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE. IN NO EVENT WILL LYTX OR ITS LICENSORS, SUPPLIERS, SUBCONTRACTORS OR DISTRIBUTORS BE LIABLE IN CONTRACT, TORT OR OTHERWISE FOR ANY AMOUNTS EXCEEDING THOSE ACTUALLY PAID BY CLIENT TO LYTX UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION ACCRUES.

## 11. CONFIDENTIALITY; CLIENT DATA

11.1 Confidential Information. During the term of this Agreement, each party (a "**Disclosing Party**") may provide the other party (a "**Receiving Party**") with confidential and/or proprietary materials and information ("**Confidential Information**"). All materials and information provided by Disclosing Party to Receiving Party shall be considered Confidential Information. Receiving Party shall maintain the confidentiality of the Confidential Information and shall not disclose such information to any third party without the prior written consent of Disclosing Party. Receiving Party shall only use the Confidential Information internally for the purposes contemplated hereunder. At any time, upon Disclosing Party's request, Receiving Party shall return to Disclosing Party or destroy all of Disclosing Party's Confidential Information in its possession, including, without limitation, all copies and extracts thereof. Notwithstanding the foregoing, Lytx's only obligations with respect to destruction of Data shall be to comply with Lytx's standard Data retention policies. The terms and pricing under this Agreement shall be deemed Lytx's Confidential Information. Notwithstanding the foregoing, Receiving Party may disclose Confidential Information to any third party to the limited extent necessary to exercise its rights, or perform its obligations, under this Agreement; provided that, all such third parties are bound in writing by obligations of confidentiality and non-use at least as protective of the Disclosing Party's Confidential Information as this

Agreement. In the event that Receiving Party is requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand or other similar process) to disclose any Confidential Information of Disclosing Party, Receiving Party shall provide Disclosing Party with prompt notice of any such request or requirement (unless prohibited by law from doing so) so that Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained, Receiving Party agrees to furnish only that portion of the Confidential Information for which Disclosing Party has waived compliance or for which Receiving Party is required to furnish by law, rule, regulation or court order.

11.2 Limitations. The obligations contained in this Section 11 shall not apply to information that: (a) is or becomes generally known to the public through no act or omission of the Receiving Party; (b) was in the Receiving Party's lawful possession prior to the disclosure and was not obtained by the Receiving Party either directly or indirectly from the Disclosing Party; (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; or (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

11.3 Client Data. As between Lytx and Client, Client shall own the information, data and content captured by the Products in Client's possession or otherwise provided by Client to Lytx in connection with Lytx's provision of the Services ("Data"). The Data will be Client's Confidential Information; provided that, Lytx and its subcontractors shall have the right to use such Data in connection with performance of Services hereunder and to improve and expand Lytx's products and services. Lytx shall have the right (which shall survive termination and expiration of this Agreement) to use and disclose the non-video and non-audio meta-data components of the Data for any lawful purposes; provided that, Lytx does not indicate to any third party that such components were provided by, obtained from, or associated with, the Client or Client's drivers. Such usage rights shall continue and survive destruction of any video clips to which such non-video and non-audio meta-data components relate. Client also grants Lytx a perpetual right to use Data from video clips for demonstration purposes, provided that Client's name and logo are obscured and Lytx does not indicate to any third party that such video clips were provided by, obtained from, or associated with, the Client or Client's drivers; such clips may be retained beyond Lytx's video clip retention period.

11.4 Warranty and Representation by Client. Client represents and warrants that (a) it has the necessary right and authority to disclose all data and information (including Data) disclosed or provided to Lytx under this Agreement; and (b) any Data disclosed by Client, as well as any other content created or stored in Lytx servers by Client in the course of using the Services will comply with all applicable laws, and will not infringe the copyright, trade secret, privacy, publicity, or other rights of any third party. Further, to the extent Client provides Lytx feedback hereunder, Client hereby assigns to Lytx any and all intellectual property and proprietary rights in such know-how, processes, enhancements, modifications or adaptations and other intellectual property, which Client or someone on Client's behalf creates, develops, conceives or first reduces to practice, based on the Products, Services, Documentation, or Lytx's Confidential Information.

## 12. INFRINGEMENT INDEMNITY

12.1 Lytx's Indemnity. Lytx shall defend, indemnify and hold Client and its officers, directors, agents and employees harmless from all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) awarded to a third party and resulting from infringement by the Products of any U.S.

patent or copyright issued as of the date of this Agreement; provided that, Lytx is promptly notified of all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over their defense and settlement (provided that failure to give such notice shall not limit Lytx's indemnity obligation hereunder except to the extent that the delay in giving, or failure to give, the notice adversely affects Lytx's ability to defend against such claim). Lytx shall not be responsible for any settlement it does not approve in writing.

12.2 Alternatives. If a Product becomes, or in Lytx's sole opinion is likely to become, the subject of an infringement claim or action, Lytx may in its discretion: (a) procure for Client the right to continue using the Product; (b) replace or modify the Product so as to be free from infringement; or (c) accept return of the Product and refund the payments paid by Client for such Product less a reasonable amount for use and damage.

12.3 Limitations. Notwithstanding the provisions of Section 12.1 above, Lytx has no liability to Client for (a) the combination of the Products with software, hardware or other materials not supplied or approved in writing by Lytx for use with the Products; (b) the activities of Client, after Lytx has notified Client in writing that such activities may result in such infringement; (c) use or operation of the Products other than in strict accordance with the applicable Documentation or Lytx's instructions; or (d) the modification of the Products, or any part thereof, unless such modification was made or recommended by Lytx, where such infringement would not have occurred but for such modifications. Client shall indemnify and hold Lytx harmless from and against all damages, liabilities, costs and expenses (including, without limitation, attorneys' fees) related to a claim of infringement or misappropriation excluded from Lytx's indemnity obligation by the immediately preceding sentence; provided that, Client is promptly notified of all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over their defense and settlement (provided that failure to give such notice shall not limit Client's indemnity obligation hereunder except to the extent that the delay in giving, or failure to give, the notice adversely affects Client's ability to defend against such claim). Client shall not be responsible for any settlement it does not approve in writing.

12.4 Entire Liability. THE FOREGOING PROVISIONS OF THIS SECTION 12 STATE LYTX'S ENTIRE LIABILITY, AND CLIENT'S EXCLUSIVE REMEDY, RELATING TO ANY ALLEGED OR ACTUAL INTELLECTUAL PROPERTY INFRINGEMENT BY THE PRODUCTS OR ANY PART THEREOF.

## 13. GENERAL INDEMNITY

Each party shall indemnify and hold the other party harmless from and against all damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) arising from or related to the indemnifying party's breach of Sections 7 or 15; provided that, the indemnifying party is promptly notified of all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over their defense and settlement (provided that failure to give such notice shall not limit the indemnifying party's indemnity obligation hereunder except to the extent that the delay in giving, or failure to give, the notice adversely affects the indemnifying party's ability to defend against such claim). The indemnifying party shall not be responsible for any settlement it does not approve in writing.

## 14. FORCE MAJEURE

Neither party shall be liable under this Agreement because of any failure or delay in the performance of its obligations (except for payment of money) on account of strikes, shortages, riots, fire, flood, storm, earthquake, acts of God, hostilities, or any other cause beyond its reasonable control.

**15. COMPLIANCE WITH LAWS**

Each party shall comply with all applicable laws and regulations, including, without limitation: the U.S. Foreign Corrupt Practices Act, all laws relating to data privacy and the use of information provided by the Client to Lytx hereunder, international communications, and the transmission of technical or personal data, and all export laws and restrictions and regulations of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or other United States or foreign agency or authority. Client shall not export, or allow the export or re-export of any Product in violation of any such restrictions, laws or regulations. Client shall obtain and bear all expenses relating to any necessary licenses, permits, and/or exemptions and any duties and fees with respect to the export from the U.S. of all Products to any location and shall demonstrate to Lytx compliance with all applicable laws and regulations prior to delivery thereof by Lytx.

**16. TRADENAMES AND TRADEMARKS**

This Agreement does not grant to any party a license to use any trademark, trade name or logo of the other party, and each party recognizes that the trademarks, trade names and logos of the other party represent valuable assets of that party and that substantial recognition and goodwill are associated with such trademarks, trade names and logos. Each party hereby agrees that it shall not use or permit any third party to use, at any time, the other party's trademarks, trade names or logos, except that Lytx may use Client's name, logo and/or trademark for the limited purpose of identifying Client as a client of Lytx in any advertising, promotion, announcement, or marketing literature relating to the services offered by Lytx.

**17. GENERAL TERMS**

Lytx is an independent contractor under this Agreement. Nothing in this Agreement creates a partnership, joint venture, or agency relationship between the parties. Except as otherwise set forth herein, all notices under this Agreement shall be in writing, and shall be deemed given when personally delivered, when sent by courier with confirmed receipt, or three (3) days after being sent by prepaid certified or registered U.S. mail to the address of the party as set forth herein or such other address as such party last provided to the other by written notice. Neither this Agreement nor any rights or obligations arising hereunder may be assigned,

**THE PARTIES HEREBY AGREE TO THE FOREGOING TERMS AND CONDITIONS:**

**LYTX, INC.**

**Village of Downers Grove**

\_\_\_\_\_  
Authorized Signature

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

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

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

\_\_\_\_\_  
Authorized Signature

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

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

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

transferred or sublicensed by Client, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Lytx. Any attempted transfer, assignment or delegation without such consent shall be null and void, and Client shall remain liable to Lytx for all obligations hereunder. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and permitted assigns, and shall not be enforceable by or inure to the benefit of any third party.

The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. The terms of this Agreement shall apply to all proposals, quotations, acknowledgements, acceptance forms and invoices submitted by Lytx to Client for the sale of Products and Services, to all related purchase orders, revisions, order releases and/or similar documents received by Lytx from Client for the purchase of Products, and to all Products and Services sold by Lytx. Any attempt to vary in any degree this Agreement, or any Purchase Order entered into hereunder, are hereby objected to and rejected unless expressly agreed otherwise by the parties in writing. This Agreement, including the addendums and Purchase Orders incorporated hereunder, contains the entire agreement between the parties with respect to the subject matter hereof. This Agreement expressly supersedes all prior proposals, agreements, negotiations, discussions, understandings or conditions (whether oral or written) between or among the parties regarding the same, including all descriptions, and illustrations of the Products in catalogues, brochures, and price lists provided by Lytx, and all past dealing or industry custom. No changes, modifications or waivers are to be made to this Agreement unless evidenced in writing and signed for and on behalf of both parties. In the event that any provision of this Agreement shall be determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of laws provisions thereof. The U.N. Convention on the International Sale of Goods shall not apply. Any action or proceeding arising from or relating to this Agreement must be brought in a state or federal court in the State of California, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

## VIDEO SUBSCRIPTION SERVICE OFFERING ADDENDUM

This Addendum shall apply to all purchases of Managed Services under the Agreement.

### 1. SUBSCRIPTION SERVICES

1.1 Description of Managed Services. Lytx shall provide Client remote access to Lytx's data center via in-bound internet connectivity, providing access to Client's Data and the hosted Software applications licensed hereunder in order to view and download driving videos captured by Client's VERs, and any related reports and assessments provided by Lytx, to the extent purchased hereunder. Lytx shall provide remote program management services whereby Lytx shall: (i) monitor the cellular connectivity to the VERs; and (ii) monitor Client's Managed Services' key performance indicators. Managed Services are available for use with auxiliary cameras and APIs to the extent supported by Lytx. Certain functionality is dependent on VER model used by Client. Lytx retains the right, in its sole discretion, to update the Product firmware and functionality and adjust the Product settings, including, but not limited to, video clip length, video compression, sensitivity of Product accelerometers and sensors, file upload and download size limits, and length of session periods, as determined by Lytx to be necessary to provide the Managed Services hereunder and to comply with applicable laws.

1.2 Usage Calculations. Video browse time is measured by time spent browsing video on Client VER. Video upload time is measured by length of minutes of video uploaded to Lytx data center from Client VER. Live stream time is measured by time spent live streaming video from Client VER. The number of minutes of video browsed, live-streamed, or uploaded will be calculated based on the number of views recorded (e.g., if a minute of video is uploaded from each of 4 camera views, that is considered 4 minutes for purposes of Client's minutes usage calculation hereunder). Total minutes are pooled and usage is determined by Lytx. Any unused minutes are forfeited at the end of each month. If the minutes cap is reached in a given month, Lytx has the right to suspend video access service for the remainder of the month unless or until Client purchases additional minutes.

1.3 Remote Access to Results. Subject to Client's compliance with the terms and conditions of the Agreement and this Addendum, Client shall have remote in-bound internet access to the Data which are hosted on computer hardware servers controlled by Lytx. To access such Data remotely, Client will be assigned user accounts and related user identification credentials (collectively, "User IDs") and passwords. Client shall be responsible for determining and designating which employees of Client (each, an "End User") receive permissions to remotely access such Data; provided, that, by using the Services, Client and such End User agree to the terms of use posted on the website used to access the Services (currently, <https://login.lytx.com>). Client may have only as many End Users as the number of User IDs activated at any one time. No User ID may be shared by more than one End User. Client understands that sharing of User IDs and passwords can jeopardize the security of Client Data. Client acknowledges that Lytx may track the number of active User IDs and to disallow use by more than the authorized number of User IDs.

1.4 Client Configurations. Client assumes all responsibility for choosing and maintaining the client configurations utilized by Client in connection with the Products and Managed Services, including, without limitation, permission hierarchies and any client-managed settings, and Lytx expressly disclaims any and all liability for any damages resulting therefrom.

1.5 Subscription Services; Suspension. Subject to Client's

compliance with the terms and conditions of the Agreement, Lytx shall provide the subscription Services to Client. If Client fails to pay any amounts due hereunder, Lytx may immediately suspend the subscription Services; upon payment by Client of all such delinquent amounts Lytx will re-institute the subscription Services.

### 2. SUBSCRIPTION TERMINATION

Each Subscription Term shall automatically renew for additional successive one (1) year periods, unless written notice of non-renewal is received by the other party no later than sixty (60) days prior to the expiration of the then current Subscription Term. If Client terminates a portion of its subscriptions, Client must remove the corresponding number of VERs from its use such that the total number of VERs is no larger than the number of valid subscriptions.

### 3. TECHNICAL SUPPORT

Lytx shall use commercially reasonable efforts to provide technical support via email at [support@lytx.com](mailto:support@lytx.com) and a toll-free customer support line at (866) 910-0403. For security reasons, Client shall provide Lytx in writing the name(s) and contact information of Client's technical personnel who will liaison with Lytx regarding all technology-related matters. Client may update such information as necessary upon written notice to Lytx. Lytx shall not be obligated to provide support to any person other than the designated liaison(s). In order to receive support from Lytx, Client shall provide Lytx with all information necessary for Lytx to trouble shoot technical errors experienced by Client with respect to Lytx's provision of Products hereunder. Client agrees to provide Lytx with reasonable access (including, without limitation, remote access) to all necessary Client personnel, facilities and equipment (including the Products) for the purpose of providing the support services hereunder.

### 4. SERVICE REQUIREMENTS

Use of a computer and internet connectivity is necessary to use Services, and Client is solely responsible for obtaining such items and paying all fees related thereto. Client agrees to access and use the Licensed Software and Services in accordance with any and all operating instructions or procedures that may be issued by Lytx, and amended by Lytx from time to time. Lytx shall have no obligation to provide subscription Services with respect to Products that are not procured by Client from Lytx or its authorized distributors and resellers.

### 5. VIDEO CLIP RETENTION POLICY

Lytx's Video Clip Retention Policy, which shall apply with respect to the Agreement and may be updated by Lytx at any time upon written notice to Client, is as follows: Video uploaded to the Lytx data center shall be available online for ninety (90) days and then stored on backup media and no longer available online. Lytx will charge its standard fee on a per-event basis to retrieve any video file from backup storage. Backups will be stored for the remaining portion of one (1) year (approximately 275 days). At that time, the stored video will be deleted.

### 6. DATA CAPTURE

Lytx makes no representation or warranty with respect to the Data captured. Client acknowledges that factors such as camera angle, view obstruction, power supply, device failure, and other conditions can result in data loss, and Lytx disclaims all liability relating to Client's loss of Data in connection therewith.



# QUOTE

Lytx, Inc.  
9785 Towne Centre Drive  
San Diego, CA 92121  
Tel: 858.430.4000  
Fax: 858.380.3133  
orders@lytx.com

Quote # ..... Q-13017  
Date ..... July 21, 2021  
Valid Until ..... July 31, 2021  
Account Executive ..... Paul Stamas  
Preparer ..... Erik Smosna  
Phone ..... 858-380-3559

## Client Name: Village of Downers Grove

<b>Bill To</b> Enza Petrarca 801 Burlington Ave. Downers Grove, IL 60515	<b>Ship To</b> ,	<b>Contact</b> Andrew Sikich  asikich@downers.us
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### SUBSCRIPTION MIGRATION TERMS

As of the Migration Date, all of Client's Lytx subscriptions existing on the Quote Date listed above are hereby terminated and replaced with the Migration Subscriptions listed below.

### MIGRATION SUBSCRIPTIONS

Billed based on committed quantity

Item	Qty	Price per Billing Period - Starting Migration Date	Total Price per Billing Period
Driver Safety Program w. Fleet Tracking Service, Purchase (Legacy)	75	\$33.15	\$2,486.25
<b>TOTAL USD</b>			<b>2,486.25</b>

### UPGRADE TERMS

Some or all of the legacy Migration Subscriptions listed above will be upgraded and replaced with the subscription Services (each, an "Upgrade Subscription") set forth below.

### SUBSCRIPTION SERVICES

Billed based on committed quantity

Item	Qty	Subscription Start Date (SSD)	Term Months from SSD	Sales Price	Total Price per Billing Period
Driver Safety Program w. Fleet Tracking Service, SF300 Alliance - Bill Annually	75	January 1, 2022	60	\$397.80	\$29,835.00
<b>TOTAL USD</b>					<b>29,835.00</b>

### EVENT RECORDER

Model supplied with Lytx Alliance and Alliance Plus subscriptions

Item	Part#	Unreturned Event Recorder Fee
Event Recorder, SF300, LTE, North America (Alliance/Alliance/Alliance Plus)	ER-SF300-0027U	\$550

**INSTALLATION, SETUP & TRAINING SERVICES**

One-time Cost

Item	Part#	Qty	Sales Price	Total
Cable Installation (All Standard Cables)	SRV-INS-0034	75	\$180.00	\$13,500.00
De-installation Service	SRV-INS-0016	75	\$0.00	\$0.00
			<b>TOTAL USD</b>	<b>13,500.00</b>

All sales as a result of this quotation are subject to the additional terms in Addendum A attached hereto and in the Master Purchase Agreement, Trial Agreement or other services agreement, as applicable, between Lytx and Client (the "Agreement").

By signing below, Client's authorized representative agrees to purchase the Products and Services described in this Quote, which becomes a binding part of the above-referenced Agreement upon acceptance by Lytx:

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**PRINTED NAME**


---

**SIGNATURE**


---

**PO# (Optional)**


---

**TITLE**


---

**DATE**


---

**PO Amount (Optional)**

**Credit Card Information (Optional)** We will call the name and number below for card information. All payments are processed upon shipment.

---

**CONTACT NAME**


---

**CONTACT PHONE**


---

**CONTACT EMAIL**

**ADDENDUM A  
ADDITIONAL QUOTE TERMS**

**Definitions:** Unless otherwise defined herein, capitalized terms used in this Quote have the same meaning as set forth in the Agreement. Event Recorder has the same meaning as VER. Each of Lytx Video Platform, Risk Detection Service, Driver Safety Program and Fleet Tracking Service subscriptions are considered Managed Services under the Agreement. "Migration Date" means the first day of the month after the date Client signs and Lytx accepts the Quote.

**Invoicing:** Hardware, provisioning, implementation, and training charges are invoiced upon shipment. Subscription Services billed based on committed quantity are invoiced in advance based on the quantity purchased. Applicable taxes, shipping and handling may apply and shall be paid by Client.

**Migration Subscriptions:** Migration Subscriptions are Client's Lytx subscriptions utilizing a DriveCam® VER that are migrating to Lytx's new product platform. If the number of Migration Subscriptions is less than the number of Client's Lytx subscriptions existing immediately prior to the Migration Date, such excess subscriptions shall be deemed terminated as of the Migration Date and Client agrees to pay the amount of any applicable early termination fee specified in this Quote. A Migration Subscription commences and becomes billable at the specified price on the Migration Date and continues until replaced by an Upgrade Subscription, or, if the Migration Subscription is not upgraded hereunder, it shall continue for a Subscription Term that matches the length of the Subscription Term for the Upgrade Subscriptions purchased in this Quote.

**Upgrade Subscriptions:** In connection with the upgrade of a legacy Migration Subscription to an Upgrade Subscription, the applicable Migration Subscription price changes to the Upgrade Subscription Sales Price on the applicable Deployment Date (if specified) or SSD, whether or not the upgrade of associated Event Recorders has been completed. For any specified Deployment Date, the Upgrade Billed Quantity represents the number of subscriptions for which Client will be billed at the Upgrade Subscription Sales Price commencing on such date; and billing is based on the cumulative upgrade commitment as of the respective Deployment Date. Any VERs provided hereunder are for use with an Upgrade Subscription only. After the applicable SSD, Lytx has the right to terminate Services for any VER associated with a legacy Migration Subscription replaced by an Upgrade Subscription. Lytx also reserves the right to audit the number of Client's Event Recorders using subscription Services, and to the extent such amount exceeds the purchased quantity, Client agrees to pay Lytx for such excess at the applicable rate for such Service. All Upgrade Subscriptions shall have a Subscription Term that continues through the Term Months specified, as measured from the SSD.

**Variable Active Quantity Billing:** Subscription Services billed based on Variable Active Quantity are billed based on the number of Event Recorders for which the applicable service is "active", and, if applicable, "inactive" in a given month, as determined by Lytx. The "active" rate is the monthly Flex Plan price and the "inactive" rate is the monthly Dormant price specified in the Sales Price column.

**Alliance Subscriptions:** The following special terms apply to Lytx Alliance<sup>SM</sup> and Lytx Alliance Plus<sup>SM</sup> subscriptions: (1) title of the Event Recorder shall remain at all times with Lytx; (2) Client must return the Event Recorder to Lytx in good working condition, reasonable wear and tear excepted, upon expiration of the Subscription Term; (3) the Unreturned Event Recorder Fee specified on the Quote shall apply to any Event Recorder that is not returned within 30 days of termination or is returned damaged, or destroyed (reasonable wear and tear excepted); (4) Client shall have care, custody and control of the Event Recorder upon Lytx's delivery to the carrier, through the duration of the Subscription Term and until return of the Event Recorder upon the expiration of the Subscription Term; (5) subject to the warranty provisions of the Agreement and the Event Recorders not having been tampered or damaged by Client, the Warranty Period for the Event Recorders shall be from shipment through the duration of the Subscription Term; (6) such subscriptions are non-transferable, non-cancelable and cannot be terminated early without consent from Lytx; if Client is permitted to terminate early, all payments due through the end of the Subscription Term shall accelerate, and Client agrees to make payment of all remaining payments obligations under the Agreement within 30 days from such termination; and (7) Client agrees to provide Lytx any reasonably requested financial information, including audited financial statements, within 2 weeks of written request by Lytx, in connection with Client's qualification for and participation in these plans. In addition, initial installation services are included with Lytx Alliance Plus subscriptions.

**Products:** Lytx Video Platform includes the Software license to cloud-hosted software to access Client's Lytx account, device firmware and updates thereto as described in the Agreement, related technical support services, device connectivity monitoring, access to continual recording, and video browse, and video upload and download capabilities. Fleet Tracking, Risk Detection Service and Driver Safety Program each include use of Lytx Video Platform. Each subscription includes a total of five (5) minutes of End User-initiated browse, livestream and/or video upload time per month, per subscribed vehicle; video/images selected by Lytx and included in a Service do not count against such minutes. Additional minutes packages are available for purchase. Capture of Lytx-selected events is only available with Risk Detection Service and Driver Safety Program. Event review and coaching workflow is only available with Driver Safety Program. Certain functionality requires use of a SF64 or newer model of Event Recorder. Standard support services are provided unless Client has purchased Premium Support services. Premium Support packages become billable on the earlier of the first Deployment Date or SSD, as applicable, and auto-renew based on the terms of the Agreement that apply to Managed Services.

**Live Stream:** THE LIVE STREAM CAPABILITIES AVAILABLE WITH LYTX VIDEO SERVICES PROVIDE A VIEW FROM THE SELECTED CAMERA AND A GPS MAP LOCATION. THE LIVE STREAM WILL HAVE AN APPROXIMATE DELAY OF 10-15 SECONDS. CLIENT ACKNOWLEDGES AND AGREES LIVE STREAM SHOULD NEVER BE USED TO ASSIST THE DRIVER IN OPERATING THE VEHICLE AND CLIENT ACKNOWLEDGES THE FOREGOING WARNING, FOR ITSELF AND CLIENT'S DRIVERS (WHOM CLIENT AGREES TO REGULARLY WARN AND INSTRUCT ON PROPER USE OF LIVE STREAM

**API:** For any included API, Lytx will provide documentation on how the API works. Client is responsible for API integration and programming.

**Termination:** Except as otherwise specified above, any termination shall be effective on the last day of the billing period in which a written termination notice is received by Lytx or such later date specified in the notice. If the cellular network utilized by the Products is no longer available due to retirement or other termination, Lytx reserves the right to terminate the impacted Services, or provide reasonable substitutions to continue Services, without penalty.

**Installation Services:** Any Lytx installation services provided hereunder shall be subject to a mutually agreed installation schedule. Client shall be responsible for ensuring availability of vehicles and Event Recorders (subject to supply by Lytx) and access to installation site on agreed installation date. No refunds shall apply for Lytx's failure to complete an installation due to vehicle or Event Recorder unavailability (unless caused by Lytx) or lack of access to installation site on agreed installation date. Additional fees may apply for return site visits due to such factors.

**Compliance Services:** Notwithstanding anything to the contrary herein, to the extent Client has purchased Compliance Services (previously called RAIR Services) from Lytx, this Quote shall not amend the terms of such Compliance Services in any way.

**Additional Services:** The terms and conditions set forth at <https://support.lytx.com/Terms> shall apply to purchases of third party products resold by Lytx to Client and referred to herein as "Additional Services". Additional Services are not transferable or eligible for early termination without Lytx consent and acceleration of amounts due through remainder of the Subscription Term.

**Notice:** To the extent not exempt, this contractor and its subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.