

# Agreement For Tyler Systems Management ("TSM")

Invoice to: City of Rapid City, SD

Contact: Tracy Davis

Address: 300 Sixth St Rapid City, SD 57701

Telephone: (605) 394-4143

This Tyler Systems Management Agreement (herein "TSM Agreement") is entered into between City of Rapid City, SD (CUSTOMER) with its principal place of business at 300 Sixth St Rapid City, SD 57701 and Tyler Technologies, Inc., (TYLER) with its principal place of business at One Tyler Drive, Yarmouth, Maine, 04096 on this 22 day of June 2016.

The headings used in the TSM Agreement are for reference purposes only and shall not be deemed a part of this TSM Agreement.

CUSTOMER agrees to purchase and TYLER agrees to provide the services listed below in accordance with the following terms and conditions.

## **I. Term of Agreement:**

This Agreement is effective as of July 8, 2016 and shall remain in force until July 8, 2017 (one year initial term). Upon expiration of that initial term, the Agreement will automatically renew for additional one year terms, at Tyler's then-current rates, unless terminated by either party at least thirty (30) days' in advance of the upcoming renewal date.

## **II. Scope of the Agreement:**

Both parties acknowledge that this Agreement covers only the services described below, for the internal business operations of:

City of Rapid City, SD

## **III. Payment:**

1. CUSTOMER agrees to pay TYLER \$28,909.00 for the services described below. This payment is due and payable upon execution of the Agreement. Thereafter, payments for any renewal payable will be due annually in advance. Payment terms are net thirty (30) days from invoice date.
2. Additional Charges. Any systems management services and/or related materials performed or supplied by TYLER for CUSTOMER that are not in-scope, as defined herein, will be invoiced to CUSTOMER on a time and materials basis at TYLER'S then-current rates

## **IV. Covered System:**

Servers that are required to run the Tyler application.

## **V. Scope of Services:** TYLER will provide the following services for the benefit of CUSTOMER:

- a. TYLER SYSTEMS MANAGEMENT Service is available during TYLER's then-current business hours. TYLER'S current business hours are set forth at <http://www.tylertech.com/client-support>. CUSTOMER may contact a TSM technician using the contact information set forth at <http://www.tylertech.com/client-support>. Calls will be recorded and answered on a first in first out basis, except on reports that declare CUSTOMER's system down, in which case CUSTOMER's call will be moved to the head of the queue
- b. TSM services are restricted to the primary production server(s) that the Tyler Software subject to this TSM Agreement is installed on. In cases where a stand-by server is employed, the stand-by server is included within the scope of this TSM Agreement, as long as the stand-by server is only used in the event of the primary production server failing.
- c. Database: Database administration services are restricted to three TYLER databases: one live database, one training database, and one test database.
  - (1) In cases where additional databases exist, each additional database will be subject to additional fees, which TYLER will quote to CUSTOMER at TYLER's then-current rates.
- d. Application Software: In-scope TSM services include two complete sets of the Tyler Software subject to this TSM Agreement: one live set and one test/train set.
- e. Required Foundation Software

TSM services include the support and installation of all foundation software TYLER requires CUSTOMER to procure to utilize one live, one train and one test database. Required foundation software is set forth at <https://check.tylertech.com/>. TYLER does not support, and this TSM Agreement does not include support services for, any Microsoft product that is not required foundation software. TYLER will reasonably cooperate with CUSTOMER in investigating issues within the Tyler Software that may be created by a Microsoft product, but it is CUSTOMER's responsibility to pursue support on Microsoft products directly from Microsoft or its authorized partners.
- f. TYLER will also perform system administrative tasks on the installed operating system and database administrative tasks on the installed database engine software.
- g. TYLER will also provide a remote installation and configuration of a new or upgraded server, at CUSTOMER'S request, once every two (2) years.

## **VI. CUSTOMER Responsibilities:**

- a. CUSTOMER shall provide, at no charge to TYLER, full and free access to the programs covered hereunder, including working space; adequate facilities within a reasonable distance from the equipment; and use of machines, attachments, features, or other equipment necessary to provide the specified support and maintenance service.

- b. CUSTOMER shall install and maintain for the duration of this Agreement a stable high speed network connection available for remote connections. CUSTOMER shall pay for installation, maintenance and use of such equipment and associated communication line use charges. TYLER, at its option, shall use this remote interface in connection with error correction.

**VI. General**

- a. **Non-Assignability:** CUSTOMER shall not have the right to assign or transfer its rights hereunder to any party.
- b. **Excused Non-Performance:** TYLER shall not be responsible for delays in servicing the products covered by this Agreement caused by strikes, lockouts, riots, epidemic, war, government regulations, fire, power failure, acts of God, or other causes beyond its control.
- c. **Limitation of Liability:** TYLER'S liability hereunder shall not exceed CUSTOMER'S actual, direct damages, not to exceed the TSM services fees paid for the year in which CUSTOMER'S claim accrues. CUSTOMER SHALL NOT, IN ANY EVENT, BE ENTITLED TO, AND TYLER SHALL NOT BE LIABLE FOR, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE, EVEN IF TYLER TECHNOLOGIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, IRRESPECTIVE OF THE NATURE OF CUSTOMER'S CLAIM.
- d. **Governing Law:** This TSM Agreement shall be governed by, and construed in accordance with, the laws of CUSTOMER's state of domicile. The invalidity or unenforceability of any provisions of this agreement shall not affect the validity or enforceability of any other provision.
- e. **Modification of this Contract:** No modifications or amendment of this Agreement shall be effective unless set forth in writing and signed by both CUSTOMER and TYLER.
- f. **Suspension:** Support and services will be suspended whenever CUSTOMER's account is thirty (30) days overdue. Support and services will be reinstated when CUSTOMER's account is made current by paying all past due fees.
- g. **Reservation of Rights:** TYLER reserves all right, title and interest, including but not limited to intellectual property rights, in and to the Tyler Software, the TSM services, and any services or deliverables related thereto, except as expressly set forth in this TSM Agreement.

CUSTOMER<sup>1</sup>

Tyler Technologies, Inc.

Mayor Steve Allender  
 Printed Name:

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 Printed Name:

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

ATTEST:

Pauline Sumption, Finance Officer  
 Printed Name:

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

<sup>1</sup> CUSTOMER'S payment of TSM services fees will constitute acceptance of the terms and conditions set forth herein, even if CUSTOMER has not signed in the allotted signature block.