COUNTY AGENDA REQUEST

Department:	Finance	Presenter(s):	Mary S. Holland
Meeting Date:	Thursday, June 13, 2013	Type of Request:	Consent

Wording for the Agenda:

Approval of staff's request to renew the Application Service Provider (ASP) Agreement with Tyler Technologies, Inc. for remote data hosting and management of Fayette County's MUNIS Applications, for a three-year period beginning July 1, 2013 and ending June 30, 2016, at a cost of $403,470.00, and authorization for the Chairman to execute said agreement and related documents.

Background/History/Details:

In 2007, Fayette County entered into a three year ASP agreement with Tyler Technologies to host and manage the County's MUNIS Applications from a remote data center. In 2010, an amendment was executed and Fayette County entered into another three year ASP agreement.

Tyler Technologies provides ongoing support, maintenance, backups, and upgrades of the applications, hardware and operations system. Fayette County's current agreement expires June 30, 2013. The renewal amendment is for a three-year period beginning July 1, 2013 and expiring on June 30, 2016.

The cost will remain level at $403, 470.00 for the three year period.

What action are you seeking from the Board of Commissioners?

Approval of staff's request to renew the Application Service Provider (ASP) Agreement with Tyler Technologies, Inc. for remote data hosting and management of Fayette County's MUNIS Applications from a remote data center, for a three-year period beginning July 1, 2013 and ending June 30, 2016, at a cost of $403,470.00, and authorization for the Chairman to execute said agreement and related documents.

If this item requires funding, please describe:

Funding for this agreement is included in the proposed FY2014 budget.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Yes	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

AMENDMENT TO APPLICATION SERVICE PROVIDER AGREEMENT

This amendment ("Amendment") is made the _____ day of _____, 2013 between **Tyler Technologies, Inc.**, with offices at 1 Cole Haan Drive, Yarmouth, Maine 04096 ("Tyler") and **Fayette County**, with offices at 140 Stonewall Avenue West, Suite 108, Fayetteville, Georgia 30214 ("Client").

WHEREAS, Tyler and the Client are parties to the Application Service Provider Agreement dated September 13, 2007 ("Agreement"); and

WHEREAS, the Term of the Agreement expires June 30, 2013;

THEREFORE, in consideration of the mutual covenants contained herein, Tyler and the Client agree as follows.

1. The term of the Agreement is hereby renewed for a three (3) year term commencing July 1, 2013 and expiring June 30, 2016 ("Term").

2. Beginning on July 1, 2013 and on the first day of each quarter through the end of the Term, Client will remit to Tyler quarterly Application Service Provider Fees in the amount of $33,622.50, as detailed in the attached Sales Quotation, for a three (3) year total of $403,470.00.

3. The ASP fees are based on forty five (45) concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the Application Service Provider Fees based upon any resulting changes in the pricing categories.

4. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement.

5. All other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, persons having been duly authorized and empowered to enter into this Amendment hereunto executed this Amendment effective as of the date last set forth below.

Tyler Technologies, Inc. **ERP and School Division**	**Fayette County**
By: Stacey M. Gerard	By: _____
Name: Stacey M. Gerard	Name: _____
Title: Assistant Secretary	Title: _____
Date: May 23, 2013	Date: _____

Quoted By: Cindy Chase
Date: 04/02/2013
Quote Expiration: 00/00/n/a
Quote Name: ASP Renewal Quote 7/1/13
Quote Number: 36255

Sales Quotation For:

Ms. Nina Madrid
Fayette Co GA
Suite 108
140 Stonewall Avenue, West
Fayetteville, GA 30214

Phone: (770) 305-5182
Fax: (770) 719-5582
Email: nmadrid@fayettecountyga.gov

1 Maintenance

Model #	Description	Quantity	Price	Extended Price	Discount	Maintenance Total
ASP-LIC-CC-1001	Concurrent Users	3.00	$45,000.00	$135,000.00	$0.00	$135,000.00
FA-AC-AS-D	Accounting/GL/BG/AP - ASP - D	3.00	$17,955.00	$53,865.00	$0.00	$53,865.00
FA-FA-AS-D	Fixed Assets - ASP - D	3.00	$4,158.00	$12,474.00	$0.00	$12,474.00
FA-PA-AS-D	Project & Grant Accounting - ASP - D	3.00	$3,402.00	$10,206.00	$0.00	$10,206.00
FA-PO-AS-D	Purchase Orders - ASP - D	3.00	$4,158.00	$12,474.00	$0.00	$12,474.00
FA-RQ-AS-D	Requisitions - ASP - D	3.00	$3,402.00	$10,206.00	$0.00	$10,206.00
FA-TM-AS-D	Treasury Management - ASP - D	3.00	$3,600.00	$10,800.00	$0.00	$10,800.00
HR-AT-AS-C	Applicant Tracking - ASP - C	3.00	$1,890.00	$5,670.00	$0.00	$5,670.00
HR-PM-AS-C	HR Management - ASP - C	3.00	$3,969.00	$11,907.00	$0.00	$11,907.00
HR-PR-AS-C	Payroll - ASP - C	3.00	$5,670.00	$17,010.00	$0.00	$17,010.00
HR-TMK-AS-C	Timekeep Interface - ASP - C	3.00	$1,134.00	$3,402.00	$0.00	$3,402.00
OF-CRW-AS-D	MUNIS Crystal Reports - ASP - D	3.00	$3,213.00	$9,639.00	$0.00	$9,639.00
OF-MO-AS-D	MUNIS Office - ASP - D	3.00	$3,024.00	$9,072.00	$0.00	$9,072.00
OF-PL-AS-D	Role Tailored Dashboard - ASP - D	3.00	$0.00	$0.00	$0.00	$0.00
RB-AR-AS-D	Accounts Receivable - ASP - D	3.00	$3,780.00	$11,340.00	$0.00	$11,340.00
RB-BL-AS-D	Bus Licenses - ASP - D	3.00	$3,402.00	$10,206.00	$0.00	$10,206.00
RB-UBCIS-AS-D	Utility Billing CIS - ASP - D	3.00	$7,938.00	$23,814.00	$0.00	$23,814.00
RB-UBI-AS-D	UB Interface - ASP - D	3.00	$2,835.00	$8,505.00	$0.00	$8,505.00
TF-AC-ASP-D	Tyler Forms Processing - ASP - D	3.00	$5,800.00	$17,400.00	$0.00	$17,400.00
TF-PX-AS-D	Tyler Forms - Postal Xpress - Annual ASP - D	3.00	$3,500.00	$10,500.00	$0.00	$10,500.00
WEB-MOL-EMP-ASP-C	Employee Self Service - ASP - C	3.00	$3,060.00	$9,180.00	$0.00	$9,180.00
WEB-SSVB-AS-TH-D	Business and Vendor Self Service - ASP - D	3.00	$3,600.00	$10,800.00	$0.00	$10,800.00
					Total: $0.00	Total: $403,470.00

Summary

	Fees	Maintenance
Total Software		$403,470.00
Summary Total	$0.00	$403,470.00

Comments

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the size and scope of your project. The actual amount of services depends on such factors as your level of involvement in the project and the speed of knowledge transfer.

Tyler's prices do not include applicable local, city or federal sales, use, excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting.

Customer Approval:	_____	Date:	_____
Print Name:	_____	P.O. #:	_____

All primary values quoted in US Dollars

ASP LICENSE AGREEMENT FOR TYLER SOFTWARE

I. LICENSES

Ownership of the software products, any modifications and enhancements to such software products and any related interfaces listed in the Investment Summary shall remain with Tyler, and Tyler grants limited License to the Client to use these products according to the Licensing Agreement herein.

II PRICE

The three-year financial obligation of the Client to Tyler for the software products and services listed in the Investment Summary herein shall be as outlined in Addendum A of the Agreement. The price shall be payable by the Client to Tyler as provided in Section III hereof. All applicable sales tax, use tax or excise tax shall be paid by the Client and shall be paid over to the proper authorities by the Client or reimbursed by the Client to Tyler on demand in the event that Tyler is responsible or demand is made on Tyler for the payment thereof. If tax exempt, Client must provide Tyler with its tax exempt number or form.

Services utilized in excess of those specified in the Investment Summary herein and additional related services not specified in the Investment Summary will be billed at the then current rate for the service as they are incurred. Any modifications or adjustments to the financial obligation of the Client shall be effective only if contained in a written Change Order or similar written instrument signed by both parties.

III. PAYMENT

Commencing on the first day of the Term of this Agreement and in each quarter through the end of the Term of this Agreement, Client will remit to Tyler ASP fees in the amount shown in Addendum A of this Agreement with payment due ten (10) days prior to the beginning of each upcoming quarter. Tyler will invoice Client in accordance with the terms of the Agreement. Until notified otherwise, Tyler shall mail invoices to the attention of the person identified in Addendum A of this Agreement for approval in accordance with the terms of this Agreement. Unless otherwise stated in this Agreement, payment is due upon invoice.

CLIENT ACKNOWLEDGES THAT CONTINUED ACCESS TO THE HOSTED APPLICATIONS LISTED IN THE INVESTMENT SUMMARY IS CONTINGENT ON CLIENT'S PAYMENT OF ASP FEES. IF CLIENT FAILS TO REMIT ANY REQUIRED ASP FEES, AND THE AMOUNT IN ARREARS IS THIRTY (30) DAYS OR OLDER, Tyler SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT AND DENY ACCESS TO THE HOSTED APPLICATIONS FOLLOWING THIRTY (30) DAYS WRITTEN NOTICE OF ITS INTENT TO TERMINATE.

IV. LIMITATION OF LIABILITY

In no event shall Tyler be liable for special, indirect, incidental, consequential or exemplary damages, including without limitation any damages resulting from loss of use, loss of data, interruption of business activities or failure to realize savings arising out of or in connection with the use of the software or hardware products. In no event, shall Tyler be liable for damages in excess of amounts paid by Client for the ASP fees identified in the Investment Summary. This limitation applies to all causes of action in the aggregate, including without limitation breach of warranty, negligence, strict liability and misrepresentation and other torts. The license fees herein reflect and are set in reliance upon this allocation of risk and the exclusion of such damages as set forth in this Agreement.

V. CONFIDENTIALITY

Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take reasonable action to prevent such disclosure by its employees or agents. It is further acknowledged that complaint issues relating to the products listed in the Investment Summary of this Agreement may directly involve personnel of both parties, therefore any initial meeting to discuss complaints resulting from the performance of the products covered in this Agreement will occur in a closed session.

The confidentiality covenants contained herein shall survive the termination or cancellation of this Agreement.

VI. RESOLUTION OF DISPUTES

In the event of disputes pertaining to performance levels, upon Tyler's failure to meet mutually agreed upon performance levels for three consecutive months, each party shall appoint an authorized representative to cooperate in developing a mutually agreeable problem resolution plan which shall include a description of internal diagnostic procedures. Tyler shall perform according to the problem resolution plan and shall be responsible for updating any hardware on Tyler's site or taking additional action within Tyler's control to reach the agreed upon performance level.

In the event of a dispute between the parties under this Agreement pertaining to pecuniary damages or losses, the matter shall be settled in accordance with the then prevailing rules of the American Arbitration Association.

VII. TERMINATION, CANCELLATION OR MODIFICATION

This Agreement may not be terminated, canceled or modified except by the written mutual consent of both parties or as otherwise provided in this Agreement. Upon termination, cancellation or non-renewal of this Agreement, any licenses for the versions of the applications that Client licensed prior to this Agreement shall remain with Client under the terms of prior license Agreements. Upon termination, cancellation, or non-renewal of this Agreement, the licenses provided under this Agreement shall be automatically terminated, and Client's access to the licensed applications shall be denied. In the event of termination or cancellation, Client will be responsible for payments made by Tyler, or payments due from Tyler, to any third parties for the purchase of Systems software, other third party software or hardware delivered to Client's site as of the date of termination or cancellation. In the event of termination or cancellation prior to the expiration of the term of this Agreement, Client shall make a payment to Tyler equal to Tyler's daily rate for implementation, consulting and conversion services delivered by Tyler prior to termination or cancellation.

VIII. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

IX. NOTICES

All notices required or permitted to be given hereunder shall be in writing and shall be delivered in hand or sent by first class mail, postage prepaid, to the parties at the following addresses or other such address or addresses as to which a party shall have notified the other party in accordance with this Section:

If to Tyler:
Richard E. Peterson, Jr.
Tyler, Inc.
370 U.S. Route 1
Falmouth, ME 04105

If to Client:
Mary Holland
Fayette County Board of Commissioners
Suite 101
140 Stonewall Avenue, West
Fayetteville, GA 30214

X. NO INTENDED THIRD PARTY BENEFICIARIES

This Agreement is entered into solely for the benefit of Tyler and Client. No third party shall be deemed a beneficiary of this Agreement, and no third party shall have the right to make any claim or assert any right under this Agreement.

XI. ENTIRE AGREEMENT

This Agreement represents the entire agreement of Client and Tyler with respect to the hardware and software products and related services and supersedes any prior agreements, understandings and representations, whether written, oral, expressed, implied, or statutory. Client hereby acknowledges that in entering into this Agreement it did not rely on any representations or warranties other than those explicitly set forth in this Agreement.

XII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Client's State of domicile.

XIII. GRANT OF LICENSE

Client is hereby granted the limited, non-exclusive and non-transferable license and right to use the Tyler Software Products listed in Section 2 of the Investment Summary, any modifications and enhancements to such Tyler Software Products, any related interfaces and related documentation. Tyler agrees to extend and the Client agrees to accept a license subject to the terms and conditions contained herein for Tyler Software Products identified herein. The grant of license is contingent on Client remitting payment of fees required under a current ASP Agreement. LICENSOR HAS THE RIGHT TO REVOKE THIS LICENSE IF LICENSEE TERMINATES, CANCELS OR FAILS TO RENEW AN ASP AGREEMENT. LICENSOR HAS THE RIGHT TO REVOKE THIS LICENSE IF LICENSEE FAILS TO REMIT ANY REQUIRED ASP FEES AND THE AMOUNT IN ARREARS IS THIRTY (30) DAYS OR OLDER FOLLOWING THIRTY (30) DAYS WRITTEN NOTICE OF ITS INTENT TO REVOKE THE LICENSE.

XIV. LIMITED USE

The Tyler Software Products listed are licensed for use only for the internal business purposes of Client listed in this Agreement. The software products are not licensed to be used to perform functions or processing for subdivisions or entities that were not considered by Tyler when Client was placed in the categories listed in Section 2 of the Investment Summary.

XV. CONFIDENTIALITY

The Client agrees that the Tyler Software Products are proprietary to the Tyler and have been developed as a trade secret at the Tyler'ss expense. The Client agrees to keep the Tyler Software Products confidential and use its best efforts to prevent any misuse, unauthorized use or unauthorized disclosures by any party of any or all of the Tyler Software Products or accompanying documentation. The confidentiality covenants contained herein shall survive the termination or cancellation of this Agreement.

XVI. MODIFICATION

The Tyler Software products may be modified but such modification shall be only for the use on the Tyler'ss hosted computer system for which the Tyler Software Products are licensed and shall not cause the Client or anyone performing such modification to gain any proprietary or other interest in the Tyler Software Products.

XVII. COPIES

The Client may make copies of the Tyler Software Products for archive purposes only. The Client will repeat any proprietary notice on the copy of the Tyler Software Products. The documentation accompanying the Tyler Software Product may not be copied except for internal use.

XVIII. WARRANTY AND LIMITATION OF LIABILITY

A. Tyler warrants that it is Tyler'ss intent that all Tyler Software Products to which access is provided under this Agreement will operate as described in the user manuals of Tyler, and Client further agrees to correct promptly and without additional charge any nonconformity that it is notified of while the Client maintains an active ASP Agreement with Tyler. The Client acknowledges that this warranty is limited to Tyler Software Products installed and used on Tyler'ss hosted computer system and accessed by Client. Client further acknowledges that modifications made to the Tyler Software Products by the Client will void Tyler'ss warranty of the programs, unless specifically stated and approved in writing by Tyler.

B. Tyler warrants that it is authorized by the manufacturer of all software included with or used by the Tyler Software Products, listed in the Investment Summary, to grant licenses or sublicenses to such software.

C. Tyler represents and warrants that the Tyler Software Products(s) and/or services for this Agreement are Year 2000 compliant. Year 2000 compliant means information technology that accurately processes date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations. Furthermore, Year 2000 compliant information technology, when used in combination with other information technology, shall accurately process date/time data if other information technology properly exchanges date/time data with it.

D. Tyler warrants that the Tyler Software Products do not infringe any United States patents or copyright held by any other person or entity.

E. Tyler shall defend, indemnify and hold harmless the Client and its officers, agents, and employees from any claim or proceedings brought against the Client, and from any cost damages and expenses finally awarded against the Client, which arise as a result of any claim that is based on an assertion that the Client's use of the Tyler Software Products under this Agreement constitutes an infringement of any United States or other patent, copyright, trademark, provided that the Client notifies Tyler promptly of any such claim or proceeding and gives Tyler full and complete authority, information, and assistance to defend such claim or proceeding and further provided that Tyler shall have sole control of the defense of any claim or proceeding and all negotiations for its compromise or settlement, provided that Tyler shall consult with the Client regarding such defense. In the event that the Tyler Software products are finally held to be infringing and its use by the Client is enjoined, Tyler shall, at is election; (1) procure for the Client the right to continue use of the Tyler Software Products; (2) modify or replace the Tyler Software Products so that it becomes non-infringing or (3) if procurement of the right to use or modification or replacement can not be completed by Tyler, terminate the access to the infringing Tyler Software Product, and upon termination, refund the ASP fees paid for the infringing software product as depreciated on a straight-line basis over a period of three (3) years with such depreciation to commence on the execution of this Agreement. Tyler shall have no liability hereunder if the Client modified the Tyler Software Products in any manner without the prior written consent of Tyler and such modification is determined by a court of competent jurisdiction to be a contributing cause of the infringement. The foregoing states Tyler'ss entire liability, and the Client's exclusive remedy, with respect to any claims of infringement of any copyright, patent, trademark or other property interest rights by the Tyler Software Products, or any part thereof, or use thereof.

F. Tyler'ss obligation for breach of warranty shall include correction or replacement of the Tyler Software Product which fails to conform to such warranty. In no event shall Tyler be liable for special, incidental, or consequential damages including any damages resulting from loss of use or access, or loss of data arising out of or in connection with the use of the Tyler Software Products or hardware products. In no event shall Tyler be liable for any breach of warranty unless notice thereof is given to Tyler within the period covered by an active ASP Agreement or extension thereof.

G. THE WARRANTIES CONTAINED IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESSED, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND SYSTEM INTEGRATION. THE EXPRESSED WARRANTIES SHALL NOT BE ENLARGED, DIMINISHED OR AFFECTED BY, AND NO OBLIGATIONS OR LIABILITIES SHALL ARISE OUT OF, THE RENDERING OF TECHNICAL OR OTHER ADVICE OR SERVICE IN CONNECTION WITH THE Tyler SOFTWARE PRODUCTS LISTED IN THE INVESTMENT SUMMARY.

SERVICE LEVEL AGREEMENT

I. Agreement Overview

This Service Level Agreement ("SLA") operates in conjunction with, and does not supersede or replace any part of, the September 13, 2007 Software as a Service ("SaaS") agreement between **Tyler Technologies, Inc.** ("Tyler") and **Fayette County Board of Commissioners** (the "SaaS Agreement"). The SLA is effective as of _____.

This SLA outlines the information technology service levels that Tyler will provide to Fayette County Board of Commissioners "Client" to ensure the availability of the application services that the Client has requested Tyler to provide. All other Client support services are documented in the Support Call Process exhibit to the SaaS Agreement.

II. Definitions

Attainment: The percentage of time a service is available during a billing cycle, with percentages rounded to the nearest whole number.

Client Error Incident: Any service unavailability resulting from a Client's applications, content or equipment, or the acts or omissions of any of Client's service users or Client's third-party providers over whom Tyler exercises no control.

Defect: Any failure of the licensed software that is recognized as a "defect" under the agreement through which Fayette County Board of Commissioners licenses the Tyler software.

Downtime: Those minutes during which the software products set forth in the SaaS Agreement are not available for any type of Client use. Downtime does not include those instances in which only a Defect is present.

Force Majeure: An event beyond the reasonable control of Tyler, including governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause which could not with reasonable diligence be foreseen, controlled, or prevented by the party.

Service Availability: The total number of minutes in a billing cycle that a given service is capable of receiving, processing, and responding to requests, excluding maintenance windows, Client Error Incidents and Force Majeure.

III. Service Availability

The Service Availability of Tyler's applications is intended to be 24/7/365. Tyler sets Service Availability goals and measures whether it has met those goals by tracking Attainment.

a. Client Responsibilities

Whenever a Client experiences Downtime, that Client must make a support call according to the procedures outlined in the Support Call Process exhibit. The Client will receive a support incident number.

To track attainment, the Client must document, in writing, all Downtime that it has experienced during a billing cycle. The Client must deliver such documentation to Tyler within 30 days of a billing cycle's end.

The documentation the Client provides must evidence the Downtime clearly and convincingly. It must include, for example, the support incident number(s) and the date, time and duration of the Downtime(s).

b. Tyler Responsibilities

When Tyler's support team receives a call from a Client that a Downtime has occurred or is occurring, Tyler will work with the Client to identify the cause of the Downtime (including whether it may be the result of a Client Error Incident or Force Majeure). Tyler will also work with the Client to resume normal operations.

Upon timely receipt of a Client's Downtime report, outlined above in Section III (a), Tyler will compare that report to Tyler's own outage logs and support tickets to confirm that a Downtime for which Tyler was responsible indeed occurred.

Tyler will respond to a Client's Downtime report within 30 day(s) of receipt. To the extent Tyler has confirmed Downtime for which Tyler is responsible, Tyler will provide Client with the relief set forth below.

c. Client Relief

When a Service Availability goal is not met due to confirmed Downtime, Tyler will provide the affected Client with relief that corresponds to the percentage amount by which that goal was not achieved, as set forth in the Client Relief Schedule below.

Notwithstanding the above, the total amount of all relief that would be due under this SLA will not exceed 5% of the fee for any one billing cycle. Issuing of such credit does not relieve Tyler of its obligations under the SaaS Agreement to correct the problem which created the service interruption. A correction may occur in the billing cycle following the service interruption. In that circumstance, if service levels do not meet the corresponding goal for that later billing cycle, Client's credits will be doubled.

Every billing cycle, Tyler will compare confirmed Downtime to Service Availability. In the event actual Attainment does not meet the targeted Attainment, the following Client relief will apply:

Client Relief Schedule

Targeted Attainment	Actual Attainment	Client Relief
100%	98-99%	Remedial action will be taken.
100%	95-97%	4% credit of fee for affected billing cycle will be posted to next billing cycle
100%	<95%	5% credit of fee for affected billing cycle will be posted to next billing cycle

A Client may request a report from Tyler that documents the preceding billing cycle's Service Availability, Downtime, any remedial actions that have been/will be taken, and any credits that may be issued.

IV. Applicability

The commitments set forth in this SLA do not apply during maintenance windows, Client Error Incidents, and Force Majeure.

Tyler performs maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, Tyler will provide advance notice of those windows and will coordinate to the greatest extent possible with the Client.

V. Force Majeure

The Client will not hold Tyler responsible for meeting service levels outlined in this SLA to the extent any failure to do so is caused by Force Majeure. In the event of Force Majeure, Tyler will file with the Client a signed request that said failure be excused. That writing will at least include the essential details and circumstances supporting Tyler's request for relief pursuant to this Section. The Client will not unreasonably withhold its acceptance of such a request.

IN WITNESS OF WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as set forth below:

Tyler Technologies, Inc.

Signature: Stacey M. Gerard

Name: Stacey M. Gerard

Title: Assistant Secretary

Fayette County Board of Commissioners

Signature: _____

Name: _____

Title: _____

Tyler Business Travel Policy

1. Air Travel

A. Reservations & Tickets

Tyler's Travel Management Company (TMC) will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within $100 (each way) of the lowest logical fare. If a net savings of $200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make reservations far enough in advance to take full advantage of discount opportunities. A seven day advance booking requirement is mandatory. When booking less than seven days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is scheduled to exceed six hours, only economy or coach class seating is reimbursable.

B. Baggage Fees

Reimbursement of personal baggage charges are based on the trip duration as follows:

- Up to five days = one checked bag
- Six or more days = two checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance-Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience and the specific situation require their use. When renting a car for Tyler business, employees should select a "mid-size" or "intermediate" car. "Full" size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual

fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler's TMC will select hotel chains that are well established, reasonable in price and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

"No shows" or cancellation fees are not reimbursable if the employee does not comply with the hotel's cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates range from $46 to $71. A complete listing is available at www.gsa.gov/perdiem.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner
Return Day	
Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00* p.m.	Breakfast, lunch and dinner

*7:00 is defined as direct travel time and does not include time taken to stop for dinner

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

- Breakfast 15%
- Lunch 25%
- Dinner 60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00* p.m.

*7:00 is defined as direct travel time and does not include time taken to stop for dinner

5. Entertainment

All entertainment expenses must have a business purpose; a business discussion must occur either before, after or during the event in order to qualify for reimbursement. The highest-ranking employee present at the meal must pay for and submit entertainment expenses. An employee who submits an entertainment expense for a meal or participates in a meal submitted by another employee cannot claim a per diem for that same meal.

6. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to $10.00 per day. Charges for internet access at airports are not reimbursable.

Effective Date: April 1, 2012

Exhibit 3

Adobe

ADOBE® CENTRAL OUTPUT SERVER
PRODUCT DESCRIPTION

Customer Name:	Fayette County, Georgia
Name of Program:	Adobe® Central Output Server
Scope of Use: (ATTACHED)	LIMITED TO USE WITH THE MUNIS APPLICATION ONLY AND ACCORDING TO THE ADOBE® END-USER LICENSE AGREEMENT
Designated Location(s):	ACCORDING TO ADOBE® END-USER LICENSE AGREEMENT (ATTACHED)
Operating Requirements:	ACCORDING TO ADOBE® END-USER LICENSE AGREEMENT (ATTACHED)
Implementation Schedule:	ACCORDING TO ADOBE® END-USER LICENSE AGREEMENT (ATTACHED)
Term of License:	ACCORDING TO ADOBE® END-USER LICENSE AGREEMENT (ATTACHED)

Accepted by Customer:

Signature

Jack R. Smith
Printed Name

Sept. 13, 2007
Date

Accepted by Tyler Technologies, Inc.:

Signature

Richard E. Peterson, Jr.
Printed Name

9-15-07
Date

ADOBE END USER LICENSE AGREEMENT

NOTICE TO USER: THIS LICENSE AGREEMENT GOVERNS YOUR USE OF THE ADOBE SOFTWARE ACCOMPANYING IT. BEFORE OPENING THE PACKAGE CONTAINING THE ADOBE SOFTWARE, CLICKING TO "ACCEPT" DURING REVIEW OF THIS LICENSE, DOWNLOADING, INSTALLING OR USING THE SOFTWARE, PLEASE CAREFULLY READ THIS AGREEMENT, WHICH CONTAINS THE TERMS UNDER WHICH YOU ("LICENSEE") ARE ACQUIRING A LICENSE TO USE THE ACCOMPANYING ADOBE SOFTWARE. IF LICENSEE DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, PLEASE DO NOT OPEN THE ACCOMPANYING SOFTWARE, CLICK TO "ACCEPT" DURING REVIEW OF THIS LICENSE, DOWNLOAD, INSTALL OR USE THE SOFTWARE, AND PROMPTLY RETURN (IF APPLICABLE) THE UNOPENED OR UNINSTALLED SOFTWARE TO THE PLACE AT WHICH LICENSEE ACQUIRED IT FOR A FULL REFUND OF ANY LICENSE FEE PAID. IF LICENSEE OPENS THE ACCOMPANYING SOFTWARE, CLICKS TO "ACCEPT" DURING REVIEW OF THIS LICENSE DOWNLOADS, INSTALLS OR USES IT, LICENSEE WILL BE ACQUIRING A LICENSE TO USE THE ADOBE SOFTWARE PRODUCT IN OBJECT CODE FORM, INCLUDING ANY RELATED PRINTED OR ELECTRONIC DOCUMENTATION (COLLECTIVELY THE "PROGRAM"), ONLY IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND LICENSEE WILL BE CONSIDERED TO HAVE ACCEPTED AND AGREED TO THE TERMS OF THIS AGREEMENT.

NOTWITHSTANDING THE FOREGOING, IF YOU RECEIVED THE ADOBE SOFTWARE AS PART OF A NEGOTIATED LICENSE AGREEMENT OR VOLUME LICENSING AGREEMENT WITH ADOBE, THE TERMS OF SUCH NEGOTIATED LICENSE AGREEMENT OR VOLUME LICENSING AGREEMENT SHALL SUPERCEDE THE TERMS OF THIS AGREEMENT TO THE EXTENT THEY ARE INCONSISTENT.

IN THE EVENT THAT A SYSTEM INTEGRATOR, CONSULTANT, CONTRACTOR OR OTHER PARTY BREAKS THE SEAL FOR LICENSEE, OR USES OR INSTALLS THE SOFTWARE ON LICENSEE'S BEHALF PRIOR TO LICENSEE'S USE OF THE SOFTWARE, SUCH SYSTEM INTEGRATOR, CONSULTANT, CONTRACTOR OR OTHER PARTY WILL BE DEEMED TO BE LICENSEE'S AGENT ACTING ON LICENSEE'S BEHALF AND LICENSEE WILL BE DEEMED TO HAVE ACCEPTED ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT AS IF LICENSEE HAD BROKEN THE SEAL OR USED OR INSTALLED THE SOFTWARE.

NOTICE TO SYSTEM INTEGRATORS, CONSULTANTS, CONTRACTORS AND OTHER PARTIES WHO DO NOT INTEND TO BE END USERS OF THE SOFTWARE: IF YOU BREAK THE SEAL, OR USE OR INSTALL THE SOFTWARE AS AN AGENT ACTING ON BEHALF OF THE LICENSEE, THEN, UNLESS YOU HAVE ENTERED INTO A SEPARATE AGREEMENT WITH ADOBE, (I) YOU AGREE TO DELIVER THE TANGIBLE MEDIA CONTAINING THE SOFTWARE AND THIS LICENSE AGREEMENT TO THE LICENSEE PRIOR TO PROVIDING THE LICENSEE ACCESS TO THE SOFTWARE, AND (II) YOU AGREE THAT YOU WILL NOT RETAIN ANY COPIES OF THE SOFTWARE. OTHERWISE, YOU WILL BE DEEMED TO BE THE USER OF THE SOFTWARE AND BOUND BY THE TERMS OF THIS AGREEMENT.

1. Definitions

"Adobe" means Adobe Systems Incorporated, a Delaware corporation, 345 Park Avenue, San Jose, California 95110, USA, if subsection 12(a) of this Agreement applies; otherwise it means Adobe Systems Software Ireland Limited, Unit 3100, Lake Drive, City West Campus, Saggart D24, Dublin, Republic of Ireland, a company organized under the laws of Ireland and an affiliate and licensee of Adobe Systems Incorporated. Adobe is the successor in interest to Accelio Corporation and all references in the Program to Accelio Corporation or JetForm Corporation shall mean Adobe. *"Access"* means to use or benefit from using the functionality of the Program in accordance with the accompanying documentation.

"CPU" means a single central processing unit within a computer.

"Development Environment" means Licensee's technical environment in which Licensee uses the Program for testing and development purposes only.

"Development Server" means a network server within Licensee's Development Environment that contains one or more CPUs and that is not used in a Production Environment. *"Disaster Recovery Environment"* means Licensee's technical environment designed solely to allow Licensee to respond to an interruption in services due to an event, beyond Licensee's control, that creates an inability on Licensee's part to provide critical business functions for a material period of time.

"Effective Date" means, unless otherwise specified in the Agreement, the date upon which Licensee acquires a license to use the Program.

"Electronic Gateway" means an electronic password or other electronic security measure that allows authorized Licensee employees access to the Program, but prevents other third party access.

"*Extranet*" means a network that uses secured TCP/IP technology to link Licensee and other selected entities to facilitate private business communications.
"*Handheld Application*" means one (1) .xft form template related to a single business process deployed on Windows CE devices.
"*Individual*" means a natural person (i.e., not a corporation or other legal entity).
"*Install*" means to place a copy of the Program onto a hard disk or other storage medium through any means (including but not limited to use of an installation utility application accompanying the Program) for the purpose of permitting Access to the Program.
"*Internet*" means the collection of computer network connected by means of a common communications protocol commonly known as TCP/IP.
"*Intranet*" means a network used within Licensee's enterprise (which may include secured TCP/IP technology connections), which network may include servers in the control of third parties whose principal business is providing such server outsourcing and which network has the purpose of sharing information and computing resources among Users.
"*Location*" means a geographical location where Licensee normally carries on business at which Users are accessing the Program through either (a) Licensee's local area network contained within such geographical location or (b) an Electronic Gateway using the Internet, an Intranet or an Extranet, for Licensee's own internal business purposes.
"*Permitted Number*" means: one (1) in the case of CPUs, Development Servers, Servers, Users and Workstations; and ten (10) in the case of Locations; unless otherwise indicated herein or in another valid license granted by Adobe. With respect to *Adobe Output Pak for Oracle E-Business Suite (Adobe Accelio Present Output Pak for Oracle E-Business Suite)* and *Adobe Output Pak for mySAP.com (Adobe Accelio Present Output Pak for* accessing *mySAP.com)*, "Permitted Number" means the number of Licensee's licensed users of Oracle E-Business Suite software or SAP software respectively, on the Effective Date of the Agreement unless otherwise indicated herein or in another valid license granted by Adobe.
"*Production Environment*" means Licensee's technical environment in which Licensee uses the Program for its business purposes.
"*Program*" means the Adobe software in object code form only, and any related printed or electronic documentation.
"*Server*" means a network server that contains one or more CPUs.
"*Users*" means any Individual who is authorized by Licensee to access and use the Program for Licensee's own internal business purposes.
"*Workstation*" means a computer workstation or personal computer that allows the Program to only be accessed by a single processor and that is not used as a network server.

2. Grant of License

In consideration of the payment of the license fee for the Program, subject to the terms of this Agreement, Adobe grants to Licensee a non-exclusive, non-transferable, limited and restricted license to use the Program for Licensee's own internal business purposes as described in this Section 2. Some third-party materials included with the Program may be subject to other terms and conditions, which are typically found in a separate license agreement, or a "Read Me" or other file located in or near such materials. In addition, for purposes of clarification, certain Programs have been renamed and are referenced herein by both their current name and their previous name (in parentheses). Each such Program referenced by two names shall be treated as a single Program without regard to the name. References to any such Program by either name in this Agreement or the Program itself shall be deemed a reference to one in the same Program.

(a) If the Program is *Adobe Central Output Server (Adobe Accelio Present Central)* or *Adobe Central Pro Output Server (Adobe Accelio Present Central Pro)*, Licensee may (i) with respect to a per-Server license, Install the Program on any number of Servers provided that the total number of Servers on which the Program is Installed does not exceed the Permitted Number, or (ii) with respect to a per-CPU license,

Install the Program on any number of CPUs provided that the total number of CPUs on which the Program is Installed does not exceed the Permitted Number. The Program shall be deemed to be licensed on a per-Server basis unless otherwise provided in writing by Adobe. Without regard to whether the Program is licensed on a per-Server or per-CPU basis, Licensee may deliver the output from the Program to any computer or device on Licensee's Intranet provided that such output is not delivered to more than the Permitted Number of Locations for each copy of the Program validly licensed.

(b) If the Program is *Adobe Central Output Server Workstation Edition (Adobe Accelio Present Central Workstation Edition)*, or *Adobe Form Client (Adobe Accelio Capture Advanced Client)*, Licensee may (i) Install the Program on any number of Workstations provided that the total number of Workstations on which the Program is Installed does not exceed the Permitted Number, (ii) Access the Program provided that such Access is initiated by an Individual (not by an automated process) directly on a Workstation containing a properly licensed copy of the Program, and (iii) deliver the output from the Program directly for use by that Individual

(c) If the Program is *Adobe Output Pak for Oracle Ebusiness Suite (Adobe Accelio Present Output Pak for Oracle E-Business Suite)*, Licensee may (i) Install the Program only on Servers that also have properly licensed copies of *Adobe Central Pro Output Server (Adobe Accelio Present Central Pro)* Installed upon them, (ii) Access the Program only in conjunction with Oracleâ E-Business Suite software, and (iii) Install and Access the one (1) copy of the *Adobe Central Pro Output Server (Adobe Accelio Present Central Pro)* product included with such Program in accordance with Section 2(a) of this Agreement. If Licensee has licensed the Program on a per-Server basis, the number of Servers with Access to the Program must not exceed the Permitted Number of Servers that have properly licensed copies of *Adobe Central Pro Output Server (Adobe Accelio Present Central Pro)* Installed upon them. If Licensee has licensed the Program on a per-User basis, Licensee may only use the Program in connection with Oracle E-Business Suite software, and the total number of Users must not exceed the Permitted Number.

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(g) If the Program is *Adobe Accelio Capture Handheld Client*, Licensee may Install and Access the Program on any number of Workstations provided that (i) the Workstations are handheld personal computers and (ii) the total number of Workstations on which the Program is Installed does not exceed the Permitted Number.

(h) If the Program is *Adobe Accelio Integrate InTempo* or *Adobe Workflow Server* (*Adobe Accelio Integrate Suite*), (i) when the Program is licensed on a per-CPU basis, Licensee may Install and Access each of the Agent and Web Access components of the Program on any number of Servers provided that the total number of CPUs used to operate the Program does not exceed the Permitted Number; or (ii) when the Program is licensed on a per-User basis, Licensee may Install and Access each of the Agent and Web Access components of the Program provided that the total number of Users with Access to the Program does not exceed the Permitted Number.

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(j) If the Program is a Development Environment version of any Program, Licensee may Install and use the Program only in Licensee's Development Environment and only on one of the following, as applicable: (i) with respect to a per Workstation license, Licensee may Install and Access the Program on any number of Workstations (or on a single server) provided that the total number of Workstations on which the Program is Installed (or that have access to the Server on which the Program is Installed) does not exceed the Permitted Number; or (ii) with respect to a per-Server license, Licensee may Install and Access the Program on a single Server provided that the total number of Servers or Workstations that Access the Program or its output does not exceed the Permitted Number. In addition, with respect to Development Environment versions of *Adobe Output Pak for Oracle E-Business Suite* (*Adobe Accelio Present Output Pak for Oracle E-Business Suite*) and *Adobe Output Pak for mySAP.com* (*Adobe Accelio Present Output Pak for mySAP.com*), the license granted for *Adobe Central Pro Output Server* (*Adobe Accelio Present Central Pro*) product included with such Programs shall also be deemed a Development Environment license.

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(o) Where a User is not an employee of Licensee, (i) Licensee shall be responsible for ensuring that any such User fully complies with the terms of this Agreement as they relate to the use of the Program on the same basis as applies to Licensee; (ii) use by such User shall only be in relation to Licensee's internal business purposes as restricted herein; and (iii) Licensee shall remain fully liable for any and all acts or omissions by such User, related to this Agreement.

(p) If font software is included with the Program, Licensee may install the font software only on the Server or Workstation on which Licensee also Installs the Program accompanying it, and use the font software for any purpose provided that rights to embed the font software into electronic files is limited as follows: (i) Licensee may embed the font software, or outlines of the font software, for the Swiss Italic, Swiss Bold and Swiss Bold Italic fonts into electronic documents for the purpose of printing and viewing only, and (ii) Licensee may embed the font software, or outlines of the font software, for the rest of the fonts included with the Program into electronic documents for the purpose of printing, viewing and editing only.

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(e) if the Program is a Development Environment version of the Program, use the Program in any other environment except Licensee's Development Environment (i.e. where the Program is a Development Environment version, the Program shall not be used in a Production Environment);

(f) if the Program is *Adobe Accelio Present Classic Design*, *Adobe Output Designer (Adobe Accelio Present Output Designer)*, *Adobe Form Designer (Adobe Accelio Capture Designer)*, *Adobe Workflow Designer (Adobe Accelio Integrate Designer)* or *Adobe Accelio Integrate InTempo Designer*, use the forms, applets, process maps or roles sets created using the Program except with Adobe solutions properly licensed to Licensee;

(g) if the Program is *Actional Control Broker (Adobe Accelio Integrate EAI Tools)*, transfer the Program to a computer different from the computer to which the Program was originally node locked.

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THE ENTIRE RISK, AS TO THE RESULTS AND PERFORMANCE OF THE PROGRAM, IS ASSUMED BY LICENSEE. TO THE GREATEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT (INCLUDING STRICT

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9. Term

Subject to the terms and conditions of this Agreement, the license granted under this Agreement shall remain in effect until Licensee ceases all use of the Program and provides written notice to Adobe of same. Adobe may terminate this Agreement due to Licensee's failure to comply with any of the provisions of this Agreement if after thirty (30) days written notice such failure remains uncured. Upon termination by Licensee or Adobe, Licensee agrees to promptly purge all copies of the Program from all computer systems on which it was stored, return to Adobe all physical copies of the Program and any other confidential information, and make immediate payment of any outstanding fees owed to Adobe.

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Notice to U.S. Government End Users. The Program and documentation are "Commercial Item(s)," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States. Adobe Systems Incorporated, 345 Park Avenue, San Jose, CA 95110-2704, USA. *U.S. Government Licensing of Adobe Technology.* Licensee agrees that when licensing Adobe Program for acquisition by the U.S. Government, or any contractor therefore, Licensee will license consistent with the policies set forth in 48 C.F.R. §12.212 (for civilian agencies) and 48 C.F.R.§§227-7202-1 and 227-7202-4 (for the Department of Defense). For U.S. Government End Users, Adobe agrees to comply with all applicable equal opportunity laws including, if appropriate, the provisions of Executive Order 11246, as amended, Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 USC 4212), and Section 503 of the Rehabilitation Act of 1973, as amended, and the regulations at 41 CFR Parts 60-1 through 60-60, 60-250, and 60-741. The affirmative action clause and regulations contained in the preceding sentence shall be incorporated by reference in this Agreement.

11. Export/Import Restrictions

Licensee represents and warrants that (a) no relevant agency has suspended, revoked or denied Licensee's export and/or import privileges; (b) Licensee is not located in or under the control of a national or resident of, a jurisdiction where this transaction is prohibited; and (c) Licensee shall not, in any manner whatsoever, either remove, convey, export, import or transmit the Program from or to Licensee's jurisdiction in violation of the applicable laws and regulations.

12. Governing Law

This Agreement, each transaction entered into hereunder, and all matters arising from or related to this Agreement (including its validity and interpretation) will be governed by and construed and enforced in accordance with the substantive laws in force in: (a) the State of California, if a license to the Program is purchased when Licensee is in the United States, Canada, or Mexico; or (b) Japan, if a license to the Program is purchased when Licensee is in Japan, China, Korea, or other Southeast Asian country

where all official languages are written in either an ideographic script (e.g., hanzi, kanji, or hanja), and/or other script based upon or similar in structure to an ideographic script, such as hangul or kana; or (c) Ireland, if a license to the Program is purchased when Licensee is in any other jurisdiction not described above. This Agreement will not be governed by: (i) the principles of conflicts of law and that body of law applicable to choice of law; (ii) the United Nations Convention on Contracts for the International Sale of Goods, and/or its implementing and/or successor legislation and/or regulations; and/or (iii) the Uniform Computer Information Transactions Act and/or its implementing and/or successor legislation and/or regulations, as applicable respectively. The respective courts of Santa Clara County, California when California law applies, Tokyo District Court in Japan, when Japanese law applies, and the competent courts of Ireland, when the law of Ireland applies, shall each have non-exclusive exclusive jurisdiction over all disputes relating to this Agreement. Each party hereby agrees to comply with all applicable laws, regulations and government orders in performing its obligations under this Agreement.

13. Assignment & Sub-license

Licensee may not transfer or assign this Agreement without the prior written consent of Adobe, which shall not be unreasonably withheld The parties agree that Adobe is hereby entitled to assign and/or transfer all or part of its rights and obligations under this Agreement to any third party. Notwithstanding the foregoing, any successor, representative or assignee which shall succeed by purchase, merger, or consolidation to the properties, substantially as an entirety, of Licensee shall be entitled to the rights and shall be subject to the obligations of its predecessor in interest under this Agreement, provided that such entity executes a prior acknowledgement confirming such entity's acceptance and agreement to be bound by and comply with the terms of this Agreement and Adobe receives such written acknowledgement prior to the transfer. Notwithstanding anything to the contrary in this Agreement, Licensee may sub-license the use of the Program to a third party outsourcing or facilities management contractor to operate the Program on Licensee's behalf, provided that (a) Adobe receive prior written notice; (b) Licensee shall be responsible for ensuring that any such contractor fully complies with the terms of this Agreement as they relate to the use of the Program on the same basis as applies to Licensee; (c) such use is only in relation to Licensee's internal business purposes as restricted herein; (d) such use does not represent or constitute an increase in the number of licenses provided hereunder; and (e) Licensee shall remain fully liable for any and all acts or omissions by the contractor, related to this Agreement.

14. Entire Agreement

This Agreement is the entire agreement between the parties with respect to its subject matter and supersedes and replaces all prior oral or written agreements, representations, negotiations or understandings between the parties relating to such subject matter. No change or modification to this Agreement shall be valid unless it is in writing and signed by an authorized representative of each party. Except as specifically permitted in Section 2 hereof, no provisions in any purchase orders, or in any other documentation employed by or on behalf of either party in connection this Agreement, regardless of the date of such documentation, will affect the terms of this Agreement, even if such document is accepted by the receiving party, with such provisions being deemed deleted.

15. Publication

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16. Waiver

No party will be deemed to have waived the exercise of any right that it holds under this Agreement unless such waiver is made in writing. Failure or delay by either party to exercise any of its rights, powers or remedies hereunder shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.

17. General

Neither party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party. Should any provision or part of any provision of this Agreement be found void or unenforceable by a court of competent jurisdiction, such provision, or part thereof, shall be deemed severed, and the remainder of this Agreement shall remain in full force and effect. The English version of this Agreement shall be the version used when interpreting or construing this Agreement. The parties acknowledge and agree that the limited warranty, exclusive remedies and limited liability set forth in this Agreement are fundamental elements of the basis of the bargain between Adobe and Licensee, and that Adobe would not be able to provide the Program on an economic basis without such limitations. The provisions within this Agreement which are meant, by their nature, to survive termination of this Agreement shall survive such termination, including, without limitation, the ownership, limitation of liability, governing law, entire agreement, waiver and general sections herein. Licensee acknowledges and agrees that Adobe's licensors (and/or Adobe if Licensee obtained the Program from any party other than Adobe) are third party beneficiaries of this Agreement, with the right to enforce the obligations set forth in this Agreement. In this Agreement words importing a singular number only shall include the plural and vice versa. The division of this Agreement into sections and the insertion of headings are for convenient reference only, and shall affect neither the construction nor the interpretation of this agreement.

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