# AMENDMENT

This amendment ("Amendment") is effective as of the date of signature of the last party to sign as indicated below ("Effective Date") by and between Tyler Technologies, Inc., a Delaware corporation with offices at 840 West Long Lake Road, Troy, MI 48098 ("Tyler") and Laramie County, with offices at 309 W 20th St, Cheyenne, WY 82001 ("Client").

WHEREAS, Tyler and the Client are parties to a License Agreement with an effective date of June 10, 1996 (the "Agreement");

WHEREAS, Tyler and Client now desire to amend the Agreement;

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, Tyler and the Client agree as follows:

1. *Socrata Terms and Conditions.* Tyler and Client agree to perform and be bound by all covenants, terms, and conditions of the Socrata Terms and Conditions, which are attached hereto as Exhibit 2 ("Socrata Agreement") with respect to the Socrata Public Safety Analytics software as more particularly described in Exhibit 1 ("Amendment Investment Summary") attached hereto, and all such covenants, terms, and conditions are incorporated by reference as if set forth at length herein.

2. The following payment terms, as applicable, shall apply to Socrata Public Safety Analytics:

    a. Your annual SaaS Fees as set forth in the Investment Summary for the initial Term of the Socrata Agreement will be invoiced on the Effective Date and renewed thereafter according to Section F(1) of the Socrata Agreement.
    b. The one-time fee for Socrata Implementation Services as set forth in the Investment Summary will be invoiced upon complete availability of the SaaS Services.
    c. The Invoicing and Payment Policy in Section E of the Socrata Agreement applies to the payment terms set out here.

3. This Amendment shall be governed by and construed in accordance with the terms and conditions of the Agreement and if the Agreement terminates so does Client's access to the Socrata Public Safety Analytics software.

4. Specific to the Socrata items added to the Agreement by this Amendment, in the event of a conflict between any term or provision in the Amendment and any term or provision in the Agreement, the terms of the Amendment shall govern. The Agreement shall otherwise remain and continue in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Amendment as of the date of signature of the last party to sign as indicated below.

LARAMIE COUNTY, WYOMING

By:_____ Date _____
    Chairman, Laramie County Commissioners

ATTEST:

By:_____ Date _____
    Debra Lee, Laramie County Clerk

CONTRACTOR: TYLER TECHNOLOGIES, INC.

By:_____*Sherry Clark*_____ Date 12/31/2019_____
    Authorized Signature: Sherry Clark, Senior Corporate Attorney

REVIEWED AND APPROVED AS TO FORM ONLY:

By:_____ Date 12/31/19
    Laramie County Attorney

**Exhibit 1**
**Amendment Investment Summary**

The following Amendment Investment Summary details the SaaS Services that you will have the right to access and use on a subscription basis under the Amendment and the Socrata Implementation Services. This Amendment Investment Summary is effective as of the Effective Date.

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| | |
|---|---|
| Date: | 4/11/2019 |
| Quote Expiration: | 10/8/2019 |
| Quote Name: | Laramie County Sheriff WY - Socrata |
| Quote Number: | 2019-27696 |
| Quote Description: | Socrata |

**Sales Quotation For**
Laramie County Sheriff
1910 Pioneer Ave
Cheyenne , WY 82001-3605
Phone: 3076334700

**Annual/SaaS**

| Description | Quantity | Fee | Discount | Annual |
|---|---|---|---|---|
| Socrata Public Safety Analytics (includes Citizen Connect) | 1 | $6,000 | $0 | $6,000 |
| TOTAL: | | | | **$6,000** |

**Services**

| Description | Quantity | Unit Price | Discount | Total |
|---|---|---|---|---|
| Socrata Implementation Services | 1 | $1,160 | $0 | $1,160 |
| TOTAL: | | | | **$1,160** |

| Summary | One Time Fees | Recurring Fees |
|---|---|---|
| Total Tyler Software | $0 | $0 |
| Total Annual Fees | | $6,000 |
| Total Tyler Services | $1,160 | |
| Total Other Costs | $0 | |
| Total Third Party Hardware, Software and Services | $0 | $0 |
| Travel and Living Expenses | $0 | |
| **Summary Total** | **$1,160** | **$6,000** |

**Exhibit 2**
**Socrata Terms and Conditions**

## SECTION A – DEFINITIONS

Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

- **"Socrata Agreement"** means this Socrata Software as a Service Terms and Conditions.
- **"Alert"** means a message that is delivered when Client-defined thresholds are exceeded.
- **"API"** means application-programming interface.
- **"External API Calls"** means any request made by a User that is not logged in against a SaaS Service. If applicable, the number of External API calls that are authorized are identified in the Investment Summary, attached as Exhibit 1.
- **"Client"** means Laramie County, WY.
- **"Client Data"** means data, datasets, files, information, content and links uploaded or provided by Client through the use of the SaaS Services, but excluding Third Party Services.
- **"Confidential Information"** means nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, Social Security numbers), information exempt from disclosure in whole or in part under Wyoming's Public Records Act, and trade secrets, each as defined by applicable state law.

- **"Dataset"** means physical collection of information, typically modeled as a table of rows and columns of data.
- **"Data Storage"** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **"Documentation"** means any manuals, instructions, specifications, or other documents or materials that Tyler provides or makes available to Client in any form or medium and which describe the functionality, components, features, performance or requirements of the SaaS Services, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance.
- **"Effective Date"** means Amendment Effective Date.
- **"Amendment Investment Summary"** means the agreed upon cost proposal for the products and services attached as Exhibit 1.
- **"Internally Accessible Private Data"** means private Client Data that is sent to, provided to, or available to Socrata exclusively by or through Client and that is otherwise only accessible internally to authorized Client Users.
- **"Invoicing and Payment Policy"** means the invoicing and payment policy, including invoice disputes, as set forth in Section E of the Socrata Agreement.
- **"User"** means a User who is logged in and accesses the SaaS Services with Client authority to do so, but in no case does "User" mean "Public User."
- **"SaaS Fees"** means the fees for the SaaS Services identified in the Investment Summary. SaaS Fees may be listed or referred to as Recurring Fees in Exhibit 1.
- **"SaaS Services"** means Socrata's cloud-based software service and related services, including support services, as specified under this Socrata Agreement. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting, or other professional services.
- **"SLA"** means the service level agreement described in Section C of this Socrata Agreement.
- **"Third-Party Services"** means if any, third-party web-based services or platforms, including but not limited to third party stock photos and third-party map location services which are provided at no additional charge to you through this Socrata Agreement.

- "Term" refers to the initial Term of this Socrata Agreement or the subsequent annual one (1) year renewal Term of this Socrata Agreement, whichever the case may be.
- **"Socrata", "we", "us", "our"** and similar terms mean Tyler.
- **"you"** and similar terms mean Client.

## SECTION B – SAAS SERVICES

1. <u>Rights Granted</u>. Tyler grants to Client the non-exclusive, non-assignable, royalty-free limited right to access and use the SaaS Services identified in the Investment Summary and the Documentation on a subscription basis according to the terms and conditions of this Socrata Agreement.

2. <u>SaaS Fees</u>. Client agrees to pay Tyler the SaaS Fees. Those amounts are payable in accordance with Tyler's Invoicing and Payment Policy. Client acknowledges that continued access to the SaaS Services is contingent upon your timely payment of the SaaS Fees. If you fail to timely pay the SaaS Fees, we may temporarily discontinue your access to the SaaS Services until you tender payment. We may also terminate this Socrata Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.

3. <u>Ownership</u>.

   3.1  Tyler retains all ownership and intellectual property rights to the SaaS Services.

   3.2  When Client uploads or provides Client Data to the Socrata SaaS platform, Client grants to Tyler a perpetual non-exclusive, worldwide, royalty-free, sub-licensable, and transferable license to use, reproduce, publicly display, distribute, modify, create derivative works of, and translate the Client Data as needed in response to use of the SaaS Services and as needed for the purpose of providing analytics to a User.

   3.3  The SaaS Services provide you with functionality to make all or part of Client Data available to the general public through one or more public facing websites. You and your Users also have the ability within the SaaS Services to remove the public permissions applied to Client Data. Client determines which Client Data is shared publicly, and Client is solely responsible for determining the online terms of use and licenses relative to the use by public users ("Public User") of Client Data, and the enforcement thereof. Once a User makes Client Data publicly available using the SaaS Services, Tyler has no control over a Public User's use, distribution, or misuse of that Client Data. Tyler has no liability or obligation to indemnify for such use, distribution, or misuse.

   3.4  Tyler reserves the right to develop derivative data assets based on Client Data that Client makes publicly available. These uses might include but aren't necessarily limited to: aggregating and summarizing data; normalizing, standardizing and concatenating data to create new regional or national data assets; and developing key performance indicators and benchmarks.

   3.5  While Tyler agrees to never commercially sell Client Data that Client makes publicly available, we reserve the right to commercially sell derivative data assets we create based on Client's public data.

   3.6  Tyler may develop derivative data assets and insights based on aggregated, anonymized views of Client's Internally Accessible Private Data for the purposes of the enhancement of the SaaS Services, aggregated statistical analysis, technical support and other internal business purposes.

   3.7  Except as otherwise provided in this Socrata Agreement or as otherwise authorized by Client or its Users, Socrata shall access Client's Internally Accessible Private Data only for the exclusive purposes of providing maintenance and support.

   3.8  Client retains all ownership and intellectual property rights to the Client Data. Client expressly recognizes that except to the extent necessary to carry out our obligations contained in this Socrata Agreement, Tyler does not

create or endorse any data used in connection with the SaaS Services. During the term of the Socrata Agreement, Client may export Client Data as allowed by the functionality within the SaaS Services.

3.9 If Client provides feedback, information, and/or or suggestions about the SaaS Services, or any other services provided hereunder, then Tyler (and those it allows to use its technology) may use such feedback, information, and/or suggestions under a royalty-free, paid-up, and irrevocable license without obligation to Client.

4. Restrictions.
   4.1. You may not: (a) except as explicitly provided for herein, willfully provide or make available through gross negligence the SaaS Services or the Documentation to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services or Documentation available to any third party other than as expressly permitted by this Socrata Agreement; (e) use the SaaS Services to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third party rights; (f) interfere with or disrupt the integrity or performance of the SaaS Services (including without limitation, vulnerability scanning, penetration testing or other manual or automated simulations of adversarial actions, without Tyler's prior written consent); or (g) attempt to gain unauthorized access to the SaaS Services or its related systems or networks.
   4.2. Client acknowledges and understands that the Socrata SaaS Services are not designed to serve as the system of record and shall not be used in a manner where the interruption of the SaaS Services could cause personal injury (including death) or property damage. The SaaS Services are not designed to process or store CJIS or PHI, and by using the Socrata SaaS Services, you acknowledge and agree that you are solely responsible for use of data with the SaaS Services in any manner that is contrary to the uses for which the Socrata SaaS Services are designed and offered for use in this Amendment.
   4.3. Although we have no obligation to screen, edit or monitor the Client Data or Public User content posted on SaaS Services, if, in our reasonable judgment, we discover your use of the SaaS Services threatens the security, integrity, stability, or availability of the SaaS Services, or is otherwise in violation of this Socrata Agreement, we may temporarily suspend the SaaS Services, or Users' access thereto. Unless Client has conducted penetration testing or unscheduled performance testing, Tyler will promptly notify Client of the violation, including relevant details, and provide an opportunity to remedy such violation or threat prior to such suspension. Any penetration testing or unscheduled performance testing conducted by Client will result in immediate suspension of the SaaS Services.

5. Reservation of Rights. The SaaS Services, other services, workflow processes, user interface, designs, and other technologies provided by Tyler pursuant to this Socrata Agreement are the proprietary property of Tyler and its licensors. All right, title and interest in and to such items, including all associated intellectual property rights, remain only with Tyler. Client may not remove or modify any proprietary marking or restrictive legends from items or services provided under this Socrata Agreement. Tyler reserves all rights unless otherwise expressly granted in this Socrata Agreement.

6. Access and Usage by Internal Client Users and Contractors. You may allow your Users and Users who are third-party contractors to access the SaaS Services and any technical or policy controls, in compliance with the terms of this Socrata Agreement, which access must be for your sole benefit. You are responsible for the compliance with this Socrata Agreement by your Users and Users who are third-party contractors.

7. Your Responsibilities. Client (a) must keep its passwords secure and confidential;; (b) must use commercially reasonable efforts to prevent unauthorized access to its account and notify Tyler promptly of any known unauthorized access; (c) may use the SaaS Services only in accordance with this Socrata Agreement and

Documentation; and (d) shall comply with all federal, state and local laws, regulations and Client policies, as to its use of the SaaS Services, its use of Client Data, and its instructions to Tyler regarding the same; and (e) is solely responsible for all unauthorized activity occurring under its account to the extent that it breached or is in breach of this Amendment.

8. <u>Client Data Backup</u>. Client is providing Socrata a copy of Client Data. Any laws and regulations governing Client for retention of Client Data remains Client's responsibility. CLIENT IS SOLELY RESPONSIBLE FOR BACKING UP CLIENT DATA unless otherwise specially agreed in writing between Tyler and Client.

9. <u>Return of Client Data</u>. Upon request, Tyler will make the SaaS Services available to Client to export Client Data for a period of sixty (60) days following the termination of this Socrata Agreement, and Tyler will reasonably cooperate with Client in facilitating any request under this provision. After such sixty (60) day period has expired, we have no obligation to maintain Client Data and may destroy the Client Data.

10. <u>APIs</u>. Tyler will provide access to the applicable application-programming interface ("API") as part of the SaaS Services under the terms of this Socrata Agreement. Subject to the other terms of this Socrata Agreement, Tyler grants Client a non-exclusive, nontransferable, terminable license to interact only with the SaaS Services as allowed by the current APIs.

   a. Client may not use the APIs in a manner--as reasonably determined by Tyler--that constitutes excessive or abusive usage, or fails to comply with any part of the APIs. If any of these occur, Tyler can suspend or terminate Client's access to the APIs on a temporary or permanent basis.

   b. Tyler may change or remove existing endpoints or fields in API results upon at least 30 days' notice to Client, but Tyler will use commercially reasonable efforts to support the previous version of the APIs for at least 6 months from deprecation notice. Tyler may add new endpoints or fields in API results without prior notice to Client.

   c. The APIs may be used to connect the SaaS Services to certain hosted or on premise software applications not provided by Tyler ("Non-Tyler Applications"). Client is solely responsible for development, license, access to and support of Non-Tyler Applications, and Client's obligations under this Socrata Agreement are not contingent on access to or availability of any Non-Tyler Application.

   d. Any open source code provided is provided as a convenience to you. Such open source code is provided AS IS and is governed by the applicable open source license that applies to such code; provided, however, that any such open source licenses will not materially interfere or prohibit Client's limited right to use the SaaS Services for its internal business purposes.

11. <u>Data Security Measures.</u> In order to protect Confidential Information, we will: (a) implement and maintain all reasonable security measures appropriate to the nature of the Confidential Information including without limitation, technical, physical, administrative and organizational controls, and will maintain the confidentiality, security and integrity of such Confidential Information; (b) implement and maintain industry standard systems and procedures for detecting, mitigating, and responding to attacks, intrusions, or other systems failures and regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures; (c) designate an employee or employees to coordinate implementation and maintenance of its Security Measures (as defined below); and (d) identify reasonably foreseeable internal and external risks to the security, availability, confidentiality, and integrity of Confidential Information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks (collectively, Security Measures). Client acknowledges and agrees that Tyler's obligations with respect to Security Measures is subject to Section B(4.2) above.

12.   Notice of Data Breach. If Tyler knows that Confidential Information has been accessed, disclosed, or acquired without proper authorization and contrary to the terms of this Socrata Agreement, we will alert Client of any such data breach in accordance with applicable law, and take such actions as may be necessary to preserve forensic evidence and return the SaaS Services to standard operability. If so required, Tyler will provide notice and take any other mandated action in accordance with applicable federal or State data breach notification laws.

13.   Confidentiality.  Both parties recognize that their respective employees and agents, in the course of performance of this Socrata Agreement, may be exposed to Confidential Information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Each party agrees that it will not disclose any Confidential Information that it is exposed to in the course of performance of this Socrata Agreement.  Each party further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents, to mitigate any such disclosure should it occur, and to cooperate with the other party in carrying out any such action. The confidentiality covenants contained herein, Sections B(11) through B(13), will survive the termination or cancellation of this Socrata Agreement. This obligation of confidentiality will not apply to information that:

   (a)   is in the public domain, either at the time of disclosure or afterwards, except by breach of this Socrata Agreement by a party or its employees or agents;
   (b)   a party can establish by reasonable proof was already in that party's possession at the time of initial disclosure from the other party;
   (c)   a party receives from a third party who has a right to disclose it to the receiving party; or
   (d)   is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Socrata Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.

## SECTION C – OTHER SERVICES

1.   Service Level Agreement (SLA) & Warranty.

   1.1          Service Warranty. Tyler warrants to Client that it will provide SaaS Services (or their functional equivalent) in a professional manner consistent with general industry standards and that the SaaS Services (or their functional equivalent) will substantially perform in accordance with this Socrata Agreement and Documentation.  Tyler has the right to update functionality, but will not materially degrade during the term. Tyler may deprecate features upon at least 30 days' notice to Client, but Tyler will use commercially reasonable efforts to support the previous features for at least 6 months following the deprecation notice. The deprecation notice will be posted at https://support.socrata.com.

   1.2          Uptime Service Level Warranty. We will use commercially reasonable efforts to maintain the online availability of the SaaS Service for a minimum of availability in any given calendar month as provided in the chart below (excluding maintenance scheduled downtime, outages beyond our reasonable control, and outages that result from any issues caused by you, your technology or your contractors, Service that is not in the production environment, if you are in breach of this Socrata Agreement, or if you have not pre-paid for SaaS Fees for the Software as a Service in the month in which the failure occurred).

   Availability SLA                                        Credit

| 99.9% | 3% of monthly fee for each full hour of an outage that adversely impacted Client's access or use of the SaaS Services (beyond the warranty). |

Maximum amount of the credit is 100% of the prorated SaaS Service Fees for such month, or $1,800.00, whichever is less, and the minimum credit cannot be less than $100.00.

1.3 <u>Limited Remedy</u>. Your exclusive remedy and our sole obligation for our failure to meet the warranty under Section C(1.2) is the provision by us of the credit for the applicable calendar month, as provided in the chart above (if this Socrata Agreement is not renewed then a refund in the amount of the credit owed), but only if you notify us in writing of such breach of the warranty within thirty (30) days of the end of that month.

## SECTION D – THIRD-PARTY SERVICES

1. <u>Third -Party Services</u>. Client may be provided with access and usage of Third-Party Services through use of the SaaS Services. Client must agree to such Third-Party Service contracts if Client chooses to use those Third-Party Services. Third-Party Services will be solely governed by such Third-Party Service contracts.

2. <u>Disclaimer</u>. You acknowledge that we are not the provider of any Third-Party Services. We do not warrant or guarantee the performance of the Third-Party Services.

## SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

1. <u>Invoicing</u>. We will invoice you the SaaS Fees for the initial Term upon the Effective Date and invoice you the one-time Socrata Implementation Fee upon complete availability of the SaaS Services. Upon expiration of the initial Term, and annually thereafter, we will automatically invoice you the pre-paid SaaS Fees for the next Term unless either party has elected not to renew under Section F(1). We will notify you of any increase in our SaaS Fees for the next Term and any other material changes to the Socrata Agreement at least 15 days before either party must exercise its right not to renew under Section F.

2. <u>Payment.</u> In accordance with Wyo. Stat. § 16-6-602 and Section E(3) below, Client shall pay each invoice within 45 days of its receipt, but in no case shall a payment obligation arise before the Effective Date.

3. <u>Invoice Disputes</u>. If you believe in good faith that the SaaS services do not conform to the warranties in this Socrata Agreement, you will provide us with written notice within forty five (45) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in good-faith dispute so that we can confirm the issues and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in good-faith dispute, and only those amounts, until we complete our proposal or any action plan. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so. If we are unable to complete our proposal or any action plan because of your failure to cooperate, then you will remit full payment of the invoice. If for any other reason we are unable to successfully complete our proposal or any action plan within thirty (30) days of receiving your written notice, then you may terminate this Socrata Agreement without obligation to pay the withheld amounts in good-faith dispute.

4. <u>Limitation on Payment.</u> If Client should not appropriate or otherwise receive funds sufficient to pay the SaaS fees under the Amendment, Client may unilaterally terminate the Amendment effective on the final day of the fiscal year through which Client has funding. Client will make every effort to give Tyler at least thirty (30) days written notice prior to a termination for lack of appropriations. Client will not be entitled to a refund or offset of its pre-paid SaaS fees for the current Term.

## SECTION F – TERM

1. <u>Term</u>. The initial Term of this Socrata Agreement is prorated beginning on the Effective Date and ending on the same date as the annual maintenance or subscription term for Tyler Software under the Client's Agreement. Upon expiration of the initial Term, and annually thereafter, this Socrata Agreement will renew automatically for an additional one (1) year Term unless either party provides written notice of non-renewal at least thirty (30) days before the Term ends.

## SECTION G - TERMINATION

1. **Termination**. This Amendment shall continue until termination occurs as provided for in this Section or as specifically provided for elsewhere in this SaaS Agreement.

2. **Material Breach.** If Client believes in good faith that Tyler has materially breached the Agreement, and if termination is not otherwise specifically provided for elsewhere in this SaaS Agreement, Client will invoke and comply with the Invoice Disputes clause set forth in Section E(3) except that Client will not be entitled to a refund or offset of its pre-paid SaaS fees for the current Term unless the parties otherwise agree in writing.

3. **Effect of Termination.** Upon non-renewal of the Term under Section F(1), your right to access or use the SaaS Services will terminate when the Term ends, subject to Section B(9). Upon termination for any other basis under any other Section, your right to access or use the SaaS Services will terminate on the termination date, subject to Section B(9).

## SECTION H –LIMITATION OF LIABILITY

1. <u>DISCLAIMER</u>. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS SOCRATA AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTYIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY, TITLE OR FITNESS FOR A PARTICULAR PURPOSE. WHILE TYLER TAKES REASONABLE PHYSICAL, TECHNICAL AND ADMINISTRATIVE MEASURES TO SECURE THE SAAS SERVICES, TYLER DOES NOT GUARANTEE THAT THE SAAS SERVICES CANNOT BE COMPROMISED. YOU UNDERSTAND THAT THE SAAS SERVICES MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED.

2. <u>LIMITATION OF LIABILITY</u>. LIABILITY FOR DAMAGES ARISING OUT OF THIS SOCRATA AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES, NOT TO EXCEED THE THEN-CURRENT ANNUAL SOCRATA SAAS FEES. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS SOCRATA AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY.

3. <u>EXCLUSION OF CERTAIN DAMAGES</u>. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL

**DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

4.  Exception. The foregoing Disclaimer, Limitation of Liability, and Exclusion of Certain Damages does not apply to the Indemnification Obligations (or any breach thereof) in this Amendment.

5.  Exception. The foregoing Disclaimer, Limitation of Liability, and Exclusion of Certain Damages does not apply to the Insurance Obligations (or any breach thereof) in this Amendment.

6.  Exception. The foregoing Disclaimer, Limitation of Liability, and Exclusion of Certain Damages does not apply to either party's gross negligence or willful misconduct.

7.  Exception. The foregoing Disclaimer, Limitation of Liability, and Exclusion of Certain Damages is not an agreement that this Socrata Agreement is a transaction in goods under any state's version of Article 2 of the Uniform Commercial Code or a transaction that creates a lease under any state's version of Article 2A of the Uniform Commercial Code.

## SECTION I – DISPUTE RESOLUTION

1.  Resolution Process. Client agrees to provide Tyler with written notice within thirty (30) days of becoming aware of a dispute besides one related to Section E(3). Client agrees to cooperate with Tyler in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with Tyler's appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If the parties fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either party may assert its respective rights and remedies in the parties' exclusive choice of forum. Nothing in this section shall prevent CLIENT or TYLER from seeking necessary injunctive relief during the dispute resolution procedures. By participating in dispute resolution under this Section, the parties agree that any applicable statute of limitations will be tolled for the period of time from the written notice until mediation. This provision is not intended nor shall it be construed to waive Client's governmental immunity as provided for in this Amendment.

## SECTION J - INDEMNIFICATION

1.  Intellectual Property Infringement Indemnification.

    a.  TYLER will defend CLIENT against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). CLIENT must notify TYLER promptly in writing of the claim and give TYLER sole control over its defense or settlement. CLIENT agrees to provide TYLER with reasonable assistance, cooperation, and information in defending the claim at TYLER'S expense.

    b.  TYLER'S obligations under this Section J(1) will not apply to the extent the claim or adverse final judgment is based on CLIENT'S: (a) use of a previous version of the Tyler Software and the claim would have been avoided had CLIENT installed and used the current version of the Tyler Software, and TYLER provided notice of that requirement to CLIENT; (b) combining the Tyler Software with any product or device not provided, contemplated, or approved by TYLER; (c) altering or modifying the Tyler Software, including any modification by third parties at CLIENT'S direction or otherwise permitted by CLIENT; (d) use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties; or (e) willful

infringement, including use of the Tyler Software after TYLER notifies CLIENT to discontinue use due to such a claim.

c. If TYLER receives information concerning an infringement or misappropriation claim related to the Tyler Software, TYLER may, at its expense and without obligation to do so, either: (a) procure for CLIENT the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case CLIENT will stop running the allegedly infringing Tyler Software immediately. Alternatively, TYLER may decide to litigate the claim to judgment, in which case CLIENT may continue to use the Tyler Software consistent with the terms of this Agreement.

d. If an infringement or misappropriation claim is fully litigated and CLIENT'S use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), TYLER will, at its option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; (c) replace it with a functional equivalent; or (d) terminate CLIENT'S license and refund the license fees paid for the infringing Tyler Software, as depreciated on a straight-line basis measured over seven (7) years from the Effective Date. TYLER will pursue those options in the order listed herein. This section provides CLIENT'S exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. Other Indemnification.

a. TYLER will indemnify and hold harmless CLIENT and CLIENT'S agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) to the extent caused by TYLER'S negligence, breach, or violation of law applicable to TYLER'S performance under this Agreement. CLIENT must notify TYLER promptly in writing of the claim and give TYLER sole control over its defense or settlement. CLIENT agrees to provide TYLER with reasonable assistance, cooperation, and information in defending the claim at TYLER'S expense.

## SECTION K - INSURANCE

1. Insurance:     During the course of performing services under the Agreement, TYLER agrees to maintain the following levels of insurance: (a) Commercial General Liability of at least $1,000,000; (b) Automobile Liability of at least $1,000,000; (c) Cyber/Privacy Professional Liability of at least $1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least $5,000,000. TYLER will add CLIENT as an additional insured to TYLER'S Commercial General Liability and Automobile Liability policies, which will automatically add CLIENT as an additional insured to TYLER'S Excess/Umbrella Liability policy as well. TYLER will provide CLIENT with copies of certificates of insurance upon CLIENT'S written request.

## SECTION L - CHOICE OF LAW AND EXCLUSIVE FORUM

1. Applicable Law. The parties mutually understand and agree the Amendment shall be governed by and interpreted pursuant to the laws of the State of Wyoming.

2. Exclusive Forum. If any dispute arises from or concerning this Amendment or the subject matter hereof, any suit or proceeding at law or in equity shall be brought only and exclusively in the U.S. District Court of Wyoming or

District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. This provision is not intended nor shall it be construed to waive Client's governmental immunity as provided for in this Amendment.

## SECTION M - ASSIGNMENT

1. Consent; Exception. Neither this Amendment, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party; provided, however, Client's consent is not required for an assignment as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of Tyler's assets, though Client is entitled to written notice of the assignment.

2. Effect of Assignment. The Amendment shall be binding upon any assignee and remain in full force and effect until otherwise terminated as provided for in the Amendment.

## SECTION O - Severability

1. Invalidity. If any provision of this Amendment is held invalid or unenforceable by any court of competent jurisdiction, or if the CLIENT is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Amendment are fully severable

## SECTION P - Force Majeure

1. Force Majeure: Neither PARTY shall be liable to perform under this Addendum if such failure arises out of causes beyond control, and without the fault or the negligence of said PARTY. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said PARTY. Neither party will be liable, CLIENT or TYLER may terminate this Agreement if a Force Majeure event suspends performance of scheduled tasks for a period of forty-five (45) days or more. In the event of termination due to Force Majeure, CLIENT will pay TYLER for all undisputed fees and expenses related to the software and/or services CLIENT has received, or TYLER has incurred or delivered, prior to the effective date of termination. Any disputed fees and expenses must have been submitted to the Invoice Dispute process set forth in Section E(3) at the time of termination in order to be withheld at termination. CLIENT will not be entitled to a refund or offset of previously paid license and other fees.

## SECTION Q - Other Provisions

1. Discrimination: All PARTIES agree they will not discriminate against any person who performs work under the terms and conditions of this Addendum because of race, color, gender, creed, handicapping condition, or national origin.

2. ADA Compliance: All PARTIES agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, and/or any properly promulgated rules and regulations relating thereto.

3. Contingencies: TYLER certifies and warrants no gratuities, kick-backs or contingency fees were paid in connection with this Addendum, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Addendum.

4. Third Parties: The PARTIES do not intend to create in any other individual or entity the status of third-party beneficiary, and this Addendum shall not be construed so as to create such status. The rights, duties and

obligations contained in this Addendum shall operate only between the PARTIES to the Addendum, and shall inure solely to the benefit of the PARTIES to this Addendum.

5.  Conflict of Interest: CLIENT and TYLER affirm, to their knowledge, no TYLER employee has any personal beneficial interest whatsoever in the Addendum described herein. No staff member of TYLER, compensated either partially or wholly with funds from this Addendum, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Addendum.

6.  Compliance with Law: TYLER shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

7.  Notices:    In accordance with Section 17.0 of the Agreement: All notices required and permitted under this Addendum shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the PARTY for whom intended at such PARTY's address listed herein, or when personally delivered personally to such PARTY, or upon mutual agreement between the PARTIES, with electronic service to such PARTY. A PARTY may change its address for notice hereunder by giving written notice to the other PARTY.

8.  Governmental/Sovereign Immunity: CLIENT does not waive its Governmental/ Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 *et seq.*, by entering into this Addendum. Further, CLIENT fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Addendum.