



re:SearchTX Participation Agreement

This Participation Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Tyler and the Texas Office of Court Administration (the "OCA") entered into a certain Master Electronic Filing Agreement dated November 8, 2012 (the "eFile Agreement") whereby Tyler has made available to Texas courts Tyler's electronic filing system; and

WHEREAS, under the eFile Agreement, Tyler agreed to develop a document search/retrieval portal to be made available to Users; and

WHEREAS, Tyler has developed such portal, re:SearchTX, as further described herein; and

WHEREAS, Client wishes to make available certain documents and other data to re:SearchTX;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **"Agreement"** means this Participation Agreement.
 - **"Client"** means Fort Bend County, Texas.
 - **"Documents"** means accepted electronic filings, rulings, opinions, or any other documents that you deem appropriate for access through Re:SearchTX.
 - **"Effective Date"** means the date on which your authorized representative signs the Agreement.
 - **"Metadata"** means a set of data that describes and gives information about case records and the Documents.
 - **"Payment Processing Agreement"** means the Court Payment Card Processing Agreement attached here as Exhibit A.
 - **"re:SearchTX"** means the document search/retrieval portal envisioned by the eFile Agreement, whereby Users are able to search Metadata stored in the document search/retrieval portal to direct Users to county-stored documents as authorized by the stakeholders owning the records
 - **"Tyler"** means Tyler Technologies, Inc., a Delaware corporation.
 - **"Users"** means those users permitted to access re:SearchTX as authorized by the OCA.
 - **"we", "us", "our"** and similar terms mean Tyler.
 - **"you"** and similar terms mean Client.
-

SECTION B – ACCESS and OWNERSHIP

1. **Integrated Method.** Using standard APIs provided by us, you will integrate your case management system directly with re:SearchTX, allowing court documents and information to be exchanged

between your case management system and re:SearchTX. The API toolset will allow security parameters to be exchanged, preventing unauthorized access to confidential court documents and records through re:SearchTX.

2. **Portal Access.** We will host and provide re:SearchTX to allow Users to search Metadata stored within re:SearchTX that directs Users to Documents you store outside of re:SearchTX. You will provide us with access to the Documents to the extent necessary for us to perform our obligations under this Agreement.
3. **Ownership.**
 - 3.1. You retain all ownership and intellectual property rights to the Documents. Nothing in this Agreement shall be deemed to vest in us any ownership rights in and to your Documents.
 - 3.2. We reserve all rights not expressly granted to you in this Agreement. We own the title, copyright, and other intellectual property rights in Re:SearchTX and Metadata.

SECTION C – TERM, TERMINATION and DISPUTE RESOLUTION

1. **Term.** The term of this Agreement (“Term”) shall commence on the Effective Date and shall continue in accordance with the term set forth in the eFile Agreement, including all renewals thereof.
2. **Termination for Cause.** Either party may terminate this Agreement for “Cause”; provided, however, that such party follows the procedures set forth in Section C(3). For purposes of this Section 2, “Cause” means either:
 - a. a material breach of this Agreement, which has not been cured within sixty (30) days of the date such party receives written notice of such breach;
 - b. breach of Section D(9); or
 - c. If Tyler becomes insolvent or bankrupt, or is the subject of any proceedings relating to its liquidation or insolvency or for the appointment of receiver or similar officer for it, has a receiver of its assets or property appointed or makes an assignment for the benefit of all or substantially all of its creditors, or institutes, or causes to be instituted any proceeding in bankruptcy or reorganization or rearrangement of its affairs.

No party may terminate this Agreement under this Section 2 until it follows the dispute resolution procedures set forth in Section C(3).

3. **Dispute Resolution.** You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us 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 our 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 we fail to resolve the dispute, either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

SECTION D – GENERAL TERMS

1. **Compliance with Laws.** In providing the services herein, we will comply with all applicable federal, state, and local laws, ordinances, and regulations.
2. **No Warranty.** You acknowledge that all Documents are received directly from you and that we do not edit, and cannot independently verify, the completeness or accuracy of the Documents or Metadata. All Documents retrieved through the re:SearchTX are provided on an “AS IS” basis. Neither party makes any representation or warranty related to the accuracy or completeness of any such Documents and shall have no liability arising from or relating to the same. WE MAKE NO REPRESENTATION OR WARRANTY RELATED TO THE PERFORMANCE OF THE PORTAL, AND DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
3. **Limitation of Liability.** OUR LIABILITY TO YOU FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO THE CORRECTION OF DEFECTS IN THE PORTAL. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS, OR LOSS OF BUSINESS OR LOSS OF DATA ARISING OUT OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER THE PARTIES HAVE ADVANCE NOTICE OF THE POSSIBILITIES OF SUCH DAMAGE.
4. **Binding Effect; No Assignment.** This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
5. **No Intended Third Party Beneficiaries.** This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement.
6. **Independent Contractor.** We are an independent contractor for all purposes under this Agreement.
7. **Notices.** All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
8. **Client Lists.** You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
9. **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, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be

confidential and includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this 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 Agreement by a party or its employees or agents;
- (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
- (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 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.

10. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its rules on conflicts of law.

11. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.
Courts & Justice Division

Fort Bend County, Texas

By: Bruce Graham

By: _____

Name: BRUCE GRAHAM

Name: _____

Title: PRESIDENT, C&J

Title: _____

Date: 11/15/2017

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

Attn: _____