

## HOSTING SERVICES AGREEMENT

This Hosting Services Agreement (this “Agreement”) is made between Byrne Software Technologies, Inc., a Missouri corporation, with a principal place of business at 16091 Swingley Ridge Road, Suite 200, Chesterfield, MO 63017 (“BYRNE”) and El Paso County, Texas with a principal place of business at 800 E. Overland Ave, El Paso, TX 79901 (“CUSTOMER”). BYRNE and CUSTOMER hereby agree that the term “CUSTOMER” shall include the fringe benefit, retirement, training, and labor-management cooperative plans operated by or associated with CUSTOMER. BYRNE and CUSTOMER hereby agree as follows:

1. **Hosting Services.** BYRNE shall provide to Customer defined server resources on BYRNE’s hardware located at BYRNE’s hosting site, using operating software supplied by BYRNE (“Hosting Services”). The specifications and pricing for these server resources and services to Customer are set forth in Exhibit A, Customer Order, attached. BYRNE shall not be required to provide to Customer any additional services unless the parties amend this Agreement by describing such services on, and executing, an addendum to Exhibit A.
2. **Hosting Site.**
  - (a) BYRNE currently provides a fully licensed, secure technical environment, including hardware and software, on the Microsoft Azure Cloud Platform (“Hosting Site”) to provide Hosting Services. BYRNE reserves the right to change the location of the Hosting Site on not less than thirty (30) days prior written notice to Customer. BYRNE shall make a commercially reasonable effort to avoid disruption of services during reasonable business hours. Hardware supplied by BYRNE will reside in a secure environment, shall reside in the United States, and, to the extent possible, and subject to events outside BYRNE’s control, the Hosting Site will be always connected to at least one internet connection. Customer shall have access to its stored files and data at the Hosting Site through such internet access. BYRNE will take reasonable steps to ensure the integrity and security of the hosting environment. BYRNE does not guarantee that the hosting services, including without limitation, the hosted environment will be free from unauthorized users or hackers. BYRNE will take reasonable security precautions or remedial action that it deems appropriate or necessary.
  - (b) BYRNE may, from time to time, in its sole discretion, change some or all of the functions or components of the Hosting Site, or make any modification for the purpose of improving the performance, service quality, error correction or to maintain the competitiveness of the Hosting Site. If BYRNE desires to make any modification, which would adversely affect the use of the Hosting Services, BYRNE shall provide the Customer with 30 days prior notice (the “Notice Period”) in writing of its intention to make such modification, including a description of its impact on the Hosting Services.
  - (c) If the Customer is provided a user name and password for access to the Hosting Site, and the Customer determines that another person has gained access to Customer’s password and user name, or that another has wrongfully accessed Customer’s files and data at the Hosting Site, then Customer shall immediately advise BYRNE and BYRNE shall delete Customer’s password and user name and shall issue to Customer a new password and user name. BYRNE shall have no liability, of any kind whatsoever, to Customer for any unauthorized access to the Hosting Site.

3. **Customer Data.** If BYRNE is contracted to perform backup of the customers hosting applications in Exhibit A (beyond the incremental backups provided) then during Hosting Services setup Customer and BYRNE will define the backup schedule of Customer data. Customer shall be solely responsible for the backup, storage and retrieval of its files and data. Customer reserves all its rights, title and interest in and to the Customer Data. No rights are granted to Byrne hereunder with respect to the Customer Data, except as needed to perform Hosting Services.
4. **Confidentiality of Customer Applications/Files/Data.** BYRNE acknowledges that it may receive access to certain proprietary and confidential business information of the Customer, which Customer expressly identifies as Confidential, such as, but not limited to, customer lists and planning strategies (“Confidential Information”). BYRNE will not, during or for a period of one (1) year after the termination of this Agreement, use or disclose to any third person for any reason Customer Confidential Information and will not disclose or make available to any third person any reports or recommendations which BYRNE produces for Customer, except as may be required to perform services pursuant to this Agreement or as may be required by court or administrative agency order or pursuant to a validly issued subpoena. BYRNE shall destroy Customer Confidential Information one (1) year after the termination of this Agreement or sooner upon written request of the Customer. If BYRNE is required by law to disclose Customer Confidential Information, BYRNE agrees to notify Customer in writing within 5 business days after determining that such disclosure is required.
5. **Customer Point of Contact.** The customer is responsible for establishing throughout the Term of this Agreement the designated point of contact person (the “Administrator”), who shall be identified in Exhibit A, to communicate with BYRNE.
6. **Right to Perform Services for Others.** The Customer recognizes that BYRNE is in the business of providing computer and information technology services, as well as Hosting Services, and will perform such services for others during the term of this Agreement. Nothing contained herein shall be interpreted or construed to prevent BYRNE from using any ideas, concepts, methods, processes, know-how, organization, techniques or any software, including, without limitation, Hosting Services or the Hosting Site, in providing any services to any third person.
7. **Customer’s Duties.**
- (a) Customer agrees to timely pay to BYRNE the fees for Hosting Services set forth in Exhibit A Customer Order.
  - (b) Customer agrees to abide by all rules and procedures established by BYRNE, from time to time, relating to access to the Hosting Site and Hosting Services.
  - (c) Customer recognizes that the hardware and software at the Hosting Site is the sole and exclusive property of BYRNE and that this Agreement does not create in Customer any ownership rights in such hardware or software, or the Hosting Site, but only the right to use such hardware and software at the Hosting Site, as provided in this Agreement. Customer will retain ownership of the software that is incorporated into the Hosting Site. Customer must keep its software provided to the Hosting Site at versions that are compatible with the Hosting Site environment including the Database environment.
  - (d) Customer recognizes that traffic through the internet and/or other unspecified technical situation may cause delays in the transmission of information and agrees that BYRNE shall have no liability for such delays. Customer further recognizes that it may not have twenty-four-hour access to the Hosting Site during such delays or during such reasonable times that

BYRNE may be upgrading, modifying, servicing or maintaining the Hosting Site or Hosting Services.

8. **Disclaimers; Limitation of Liability.**

- (a) Most of the practices, procedures and utilities that comprise the Hosting Services are approaches that are used in the BYRNE offices or have been tested by BYRNE. While these practices, procedures and utilities are appropriate to minimize an organization's exposure to business network interruptions, they will not guarantee uninterrupted services. Events beyond BYRNE's or Customer's control can still occur, including, without limitation, (computer virus, critical hardware failure, conflicts between two or more software products, operation system instability, interruption of electrical power support, acts of God, and interruption of internet access). As set forth in subparagraph (b), below, BYRNE shall have no liability for interrupted or unavailable Hosting Services.
- (b) The Hosting Site and Hosting Services provided are "AS IS," WITH ALL FAULTS, WITHOUT WARRANTY OF ANY KIND TO CUSTOMER, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR QUIET ENJOYMENT. THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE AND ACCURACY OF CUSTOMER BACKUP, STORAGE, RETRIEVAL OF CUSTOMER'S FILES AND DATA IS WITH THE CUSTOMER. ANY EFFORT BY BYRNE TO MODIFY ITS SERVICES FOR CUSTOMER SHALL NOT BE DEEMED A WAIVER OF THESE LIMITATIONS. CUSTOMER AGREES THAT BYRNE SHALL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, INTERRUPTION OF BUSINESS, LACK OF ACCESS, OR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF BYRNE WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Some jurisdictions do not permit the exclusion or limitation of liability for consequential or incidental damages. In such jurisdictions, the foregoing will limit BYRNE's liability to the greatest extent permitted by law.

9. **Non-solicitation of Employees.** During the Term of this Agreement, and for a period of one (1) year after termination of this Agreement, the Customer shall not hire or contract with, directly or indirectly, in any capacity, a BYRNE employee who rendered Services to Customer; provided, however, that BYRNE shall waive this provision upon payment by Customer to BYRNE of a fee of thirty percent (30%) of the greater of such BYRNE employee's new annual salary or fee with Customer or his/her last annual salary while employed by BYRNE.

10. **Term of Agreement.** This Agreement shall be in effect for a period of twelve (12) months after the Effective Date, which is the date of Customer's signature (Anniversary Date), and shall automatically renew for one-year periods on each anniversary of the Effective Date unless terminated as provided below.

11. **Termination.**

This Agreement may be terminated:

- (a) by BYRNE if the Customer fails to make any payment when due thereon to BYRNE under this Agreement and fails to cure such default within ten (10) days of receiving notice in writing from BYRNE to do so;
- (b) by the Customer by providing written notice to BYRNE within ninety (90) days of receiving notification from BYRNE of any change in the Hosting Services, including any change in policy, rate or fee for the Hosting Services;
- (c) subject to subparagraph (a), by either party in the event the other party materially breaches any of its duties, obligations or responsibilities under this Agreement and fails to cure such breach, or provide the other party with an acceptable plan for curing such breach within thirty (30) days after receipt by the breaching party of written notice specifying the breach; or
- (d) by either party in the event: (i) a receiver, trustee, administrator, or administrative receiver should be appointed for the other party or its property; (ii) the other party makes an assignment for the benefit of creditors; (iii) any proceedings should be commenced against the other party under any bankruptcy, insolvency, or debtor's relief law, and such proceedings shall not be vacated or set aside within fifteen (15) days from the date of commencement thereof; or (iv) the other party should be liquidated or dissolved.
- (e) by either party on any anniversary of the Effective Date on not less than 90 days prior written notice to the other party.

12. **Effect of Termination.**

Except to the extent otherwise agreed to in writing by the parties, upon the effective date of termination of this Agreement:

- (a) BYRNE shall be entitled to immediately cease providing the Hosting Site to Customer;
- (b) the Customer shall forthwith pay to BYRNE all amounts due to BYRNE under this Agreement on the effective date of termination;
- (c) where the Customer has paid fees for Hosting Services in advance, BYRNE shall refund to the Customer any such unearned amount less any monthly fees and charges due to BYRNE, calculated in accordance with Exhibit A plus an amount equal to three month's fees;
- (d) the Customer shall, and shall cause its Users to, immediately and permanently cease to use, in any manner whatsoever, the BYRNE Hosting Site, the User Access Codes and the BYRNE Documentation.
- (e) BYRNE will work with Customer to transfer Customer data after 12.b is satisfied. Customer and Byrne will work together to determine a reasonable data format to transfer Customer's data. Customer and BYRNE will work together to determine a data transfer (transfer) strategy. BYRNE will provide 2 hours of support for the data transfer and data

formatting at no charge to the customer. If the data transfer or data formatting exceeds 2 hours a quote will be provided to Customer. Customer will pay the amount due to BYRNE before the transfer will begin or is complete. Byrne will take reasonable steps to ensure Customer's data is not corrupted during formatting or transferring of data.

**13. Billing Procedures.**

- a. Annually – Thirty (30) days prior to the anniversary date of this agreement BYRNE will invoice the Customer for the contracted Hosting Services. All invoices are due and payable Net 30 from the date of the applicable invoice. Any late payments shall be subject to an additional charge of the lesser of 1.5% per month or the maximum permitted by law.
- b. Monthly - During the first week of each calendar month BYRNE will invoice the Customer for the contracted Hosting Services and additional charges incurred during the previous calendar month. BYRNE will provide a detailed bill for hours expended and the description of services incurred during the preceding calendar month. All invoices are due and payable Net 30 from the date of the applicable invoice. Any late payments shall be subject to an additional charge of the lesser of 1.5% per month or the maximum permitted by law.
- c. If BYRNE service hours exceed the contracted Hosting Services hours, BYRNE will bill for the excess hours at the full billing rate, as set forth in Exhibit A. All invoices are due and payable Net 30 from the date of the applicable invoice. Any late payments shall be subject to an additional charge of the lesser of 1.5% per month or the maximum permitted by law.

In the event the Customer storage requirements exceed the contracted storage space, BYRNE will notify the Customer as soon as BYRNE becomes aware of the excess usage and the cost of the total space required to meet the Customer's storage requirements. On the month following the notification of excess usage, BYRNE will bill for the excess Hosting Services Monthly Storage based on the schedule in Exhibit A. Payment is due to BYRNE within ten (10) days of Customer's receipt of invoice.

BYRNE will review the Hosting Services pricing on a calendar basis. Price changes will take effect on or after the anniversary date of this Agreement. Customer will be notified thirty days in advance before any changes can take effect. Prices can only be changed once during a contract year.

Prices set out herein are exclusive of all taxes and the Customer shall pay (and BYRNE shall have no liability for), any taxes, tariffs, duties and other charges or assessments imposed or levied by any government or governmental agency in connection with this Agreement, including, without limitation, any federal, state and local sales, use, goods and services, value-added and personal property taxes on any payments due BYRNE in connection with the services provided hereunder, except for tax based solely on the net income of BYRNE.

Byrne Software reserves the right to terminate services for failure to pay, and Customer fails to pay an invoice in accordance with the terms of the HOSTING SERVICES AGREEMENT.

**14. Miscellaneous.**

- (a) This Agreement supersedes any and all other agreements, either oral or written, between the parties and contains all agreements and representations of the parties. This Agreement may be amended or modified only by a document signed by both parties.

- (b) This Agreement will be governed by the laws of the State of Missouri without regard to its choice of law principles. Any dispute, concerning this Agreement, or breach thereof, the parties agree to arbitration as the first resolution of dispute. In the event that the dispute is incapable of resolution by arbitration any litigation that would ensue, the exclusive jurisdiction and venue of any action related to the subject matter of this Agreement will be the state and federal courts located in the State of Missouri and each of the parties hereto waives any objection to jurisdiction and venue in such courts.

**BYRNE**

**CUSTOMER**

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Its \_\_\_\_\_  
(Title)

Dated: \_\_\_\_\_  
(Month, Day, Year)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Its \_\_\_\_\_  
(Title)

Dated: \_\_\_\_\_  
(Month, Day, Year)

# BYRNE Software Technologies, Inc.

## EXHIBIT A Order Form

### Software and Services

#### Hosting and Support Fees

Item	Product	Description	License	Sales Price	Total Price
1	Customer Licensed	Nexus Payment Processor Middleware Component for Accela Integration – Year 1	1	\$7,481.47/yr	\$7,481.47
Annual Total: \$7,481.47					

# BYRNE Software Technologies, Inc.

Order Detail	
General Information	
Customer Name:	El Paso County, Texas
Customer Contact	Michael McElroy
Customer Address	800 E. Overland Ave., El Paso, TX 79901
Governing Agreement(s)	Carahsoft Quote 41027329, executed by both parties on 9/16/2024, Item 31
Term	12 Months
Order Terms	
Order Start Date	Unless otherwise specified in the Special-Order Terms: Software Licenses & Subscriptions start on the date of delivery by Byrne.
Order Duration	Unless otherwise specified in the Special-Order Terms: - Subscriptions continue from the Order Start Date through the number of months listed in this Order Form (or if not listed, twelve (12) months). Thereafter Subscriptions automatically renew annually as calculated from Order Start Date of Customer's first Subscription purchase
Special Order Terms	In the event of an inconsistency between this Order Form, any governing agreement, purchase order, or invoice, the Order Form shall govern as it pertains to this transaction.
Payment Terms	
Currency	USD
Invoice Date	Unless otherwise stated in the Special Payment Terms, Invoices will be sent out 30 days prior to the month due. The first invoice will be sent out 30 days prior to the Order Start Date.
Payment Due Date	Unless otherwise stated in the Special Payment Terms or the Governing Agreement(s), all payments are due on the Invoice Date and payable <b>net 30 days</b> .
Special Payment Terms	The customer will be billed annually for hosting fees. Customer will be invoiced for those amounts and at prices set forth in an Order (an "Invoice"). All invoices are due and payable net 30 from the date of the applicable invoice. All amounts payable to BYRNE under this Agreement shall be paid by Customer in full without any setoff, deduction, debit, or withholding for any reason. Any late payments shall be subject to an additional charge of the lesser of 1.5% per month or the maximum permitted by law. All Subscription fees are exclusive of any taxes, levies, duties, withholding or similar governmental assessments of any nature (collectively, "Taxes"). If any such Taxes are owed or payable for such transactions, they shall be paid separately by Customer without set-off to the fees due to BYRNE

# BYRNE Software Technologies, Inc.

## Purchase Order Reference (Optional)

If Customer requires PO number on invoices, it **must** be provided to the right and Customer **must** provide Byrne copy of the PO prior to invoice issuance. If no PO number provided prior to invoice issuance date, invoices issued on this Order Form will be valid without a PO reference.

PO# (If  
required):

### Notes:

1. Hosting cost is based upon a 12 Month Agreement.
2. The hosting and support services do not include updates and new releases of the Software stated in the Order.
3. Customer recognizes that traffic through the internet and/or another unspecified technical situation may cause delays in the transmission of information and agrees that Byrne will have no liabilities for such delays.
4. Any changes to the Software and Services listed under exhibit A will be considered a change to the HOSTING SERVICES AGREEMENT and may impact hosting costs.
5. If an SSL Certificate is needed it will be charged to the customer.
6. Any additional Product Support will be paid in advance at the rate of \$145 per hour Support rates are reviewed annually and may be adjusted.
7. The Customer is responsible for purchase and annual support maintenance agreements of any 3<sup>rd</sup> Party Vendor software.
8. Installation, configuration or upgrades of any 3<sup>rd</sup> Party software will be estimated under a separate Statement of Work.
9. Customer receives 250GB storage space, additional storage space can be purchased for \$142/TB of Storage per month. Storage rates are adjusted annually.
10. If applicable, Byrne will follow normal Azure backup procedures of the hosted solution. Provisions can be made for offsite storage if needed. Provisions for offsite storage may incur additional fees depending on nature of such provisions. Storage retention can be increased for an additional cost.
11. Byrne Consulting rates are reviewed on an annual basis. Customer will be notified (30) days in advance before any changes can take effect.
12. Hosting fees are reviewed on an annual basis; any price changes will take effect on or after the anniversary date of this Agreement.
13. Support Cost are reviewed on an annual basis; any price changes will take effect on or after the anniversary date of this Agreement.
14. Consulting Services (e.g., Training, Help Desk Support, 3<sup>rd</sup> party Software Upgrades, Customization, and Integration) will be provided under a separate statement of work.

**EXHIBIT B**  
**AVAILABILITY AND SECURITY POLICY**

**Service Availability:**

Byrne will use commercially reasonable efforts to (a) provide bandwidth sufficient for Customer's use of the Hosting Services provided hereunder and in an applicable Order Form and (b) operate and manage the Hosting Services with a ninety-nine and one-half percent (99.5%) uptime goal (the "Availability SLA"), excluding situations identified as "Excluded" below.

"Excluded" means any outage that results from any of the following:

- a. Any maintenance performed by Byrne during Byrne's standard maintenance windows. Byrne will notify Customer within forty-eight (48) hours of any standard maintenance and within twenty-four (24) hours for other non-standard emergency maintenance (collectively referred to herein as "Scheduled Maintenance").
- b. Customer's information content or application programming, or the acts or omissions of Customer or its agents, including, without limitation, the following:
  - 1. Customer's use of any programs not supplied by Byrne;
  - 2. Force majeure or other circumstances beyond Byrne's reasonable control that could not be avoided by its exercise of due care.
- c. Failures of the Internet backbone itself and the network by which Customer connects to the Internet backbone or any other network unavailability.
- d. Any window of time when Customer agrees that Hosting Services availability/unavailability will not be monitored or counted.
- e. Any problems resulting from Customer combining or merging the Hosting Services with any hardware or software not supplied by Byrne or not identified by Byrne in the Specifications as being compatible with the Hosting Services.
- f. Interruptions or delays in providing the Hosting Services resulting from telecommunication or Internet service provider failures.
- g. Customer's or any third party's use of the Hosting Services in an unauthorized or unlawful manner.

# BYRNE Software Technologies, Inc.

## Remedies for Excessive Downtime:

In the event the Availability of the Hosting Services falls below the Availability SLA in a given calendar month, Byrne will pay Customer a service credit ("Service Credit") equal to the percentage of the fees set forth in the table below corresponding to the actual Availability of the Hosting Services during the applicable calendar month. Such Service Credit will be issued as a credit against any fees owed by Customer for the next calendar month of the Hosting Period or, if Customer does not owe any additional fees, then Byrne will pay Customer the amount of the applicable Service Credit within thirty (30) days after the end of the calendar month in which such credit accrued.

System availability is measured by the following formula:  $x = (n - y) * 100 / n$

Notes:

- (1) "x" is the uptime percentage; "n" is the total number of hours in the given calendar month minus scheduled downtime; and "y" is the total number of downtime hours in the given calendar month.
- (2) Specifically excluded from "n and "y" in this calculation are the exception times on scheduled upgrade and maintenance windows.

Service Availability	Percentage of Monthly Service Fees Credited
>99.5%	0%
95.0% - < 99.5%	5% (max of \$100)
90.0% - < 95.0%	10% (max of \$150)
80.0% - < 90.0%	20% (max \$200)
70.0% - < 80.0%	30% (max of \$300)
60.0% - < 70.0%	40% (max of \$400)
< 50%	50% (max of \$500)

## Customer Account Login:

For Byrne user interface access, Byrne uses TLS 1.2 with AES 256 bit or similar encryption for protection of data in transit, which is supported by most modern browsers.

## Hosting:

Byrne's Hosting platform (servers, infrastructure and storage) for the Hosting Services is and will remain hosted in a secure data center, specifically designed and constructed to deliver world-class physical security, power availability, infrastructure flexibility and growth capacity. Byrne's data center provider is and will remain SSAE 16/ 18 SOC2 compliant, meaning it has been fully independently audited to verify the validity and functionality of its control activities and processes. Every Server for the Services is and will remain operated in a fully redundant fail-over pair to ensure high availability. Data is and will remain backed up nightly, stored redundantly and will be restored rapidly in case of failure. Byrne also provides an off-site backup service (at the customer's request), which is available at an additional cost. Security Patching and updates are actively evaluated by engineers and will be deployed based upon the security risks and stability benefits they offer to Byrne's Hosting platform and Customers. Byrne will attempt to provide customers reasonable prior notice to security changes, updates and patches, unless the delay will lead to a significant risk of impact to customer data.