

# WEBQA MASTER SERVICE(S) AGREEMENT

## For GovQA FOIA Applications

THIS MASTER SERVICE(S) AGREEMENT (hereinafter "Agreement") between WEBQA INCORPORATED. (hereinafter "WebQA") with its principal place of business at 900 S. Frontage Road, Suite 110 Woodridge, IL, 60517 and the City of Columbia, Missouri, a municipal corporation with its principal place of business at 701 E Broadway Columbia, MO 65205 ("Customer") is made effective as of the date of the last signatory noted below ("Effective Date"). NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Parties agree as follows:

### 1. WEBQA DELIVERY OF SERVICE(S):

WebQA grants Customer a non-exclusive, non-transferable, limited license to access and use the WebQA service(s) on the authorized website(s) identified in the attached Schedule A in consideration of the fees and terms described in Schedule A. This Agreement will also govern all additional schedules for service(s) between the Parties that reference this Agreement. WebQA shall perform its services in a professional and workmanlike manner and shall only use qualified and experienced personnel. WebQA shall at all times maintain an adequate staff of experienced and qualified employees for efficient performance of services related to this Agreement.

### 2. CUSTOMER RESPONSIBILITIES:

Customer acknowledges it is receiving only a limited license to use the service(s) and related documentation, if any, and shall obtain no title, ownership nor any other rights in or to the service(s) and related documentation, all of which title and rights shall remain with WebQA. However, Customer will retain ownership of all its data in the system.

Customer agrees that (1) this license is limited to applications for its own use and may not lease or rent the service(s) nor offer its use for others; (2) WebQA is not responsible for content placed into the service(s); (3) that the service(s) will not be used to capture confidential information of any kind such as social security numbers or individual financial data or other sensitive data; and, (4) that it will maintain the authorized website(s) identified in Schedule A, provide WebQA with all information reasonably

necessary to setup or establish the service(s) on Customer's behalf, and allow a "Powered by GovQA" logo with a hyperlink to WebQA's website home page on the authorized website.

### 3. SERVICE(S) LEVELS:

WebQA shall backup and keep the service(s) and authorized website(s) in operation consistent with applicable industry standards and shall respond to Customers' requests for support during normal business hours.

### 4. TERMINATION:

A. TERMINATION BY MUTUAL AGREEMENT. The Agreement may be terminated at any time during its term upon mutual agreement by both Parties.

#### B. TERMINATION FOR CONVENIENCE.

Either party may terminate this Agreement without cause if the terminating party gives the other party sixty (60) days written notice prior to termination. Should Customer terminate without cause after the first date of the then current term as defined in the attached schedule, Customer must pay the balance of the current contracted term and this payment obligation will immediately become due. Should WebQA terminate without cause after Customer has paid for the initial term or a renewal term, WebQA shall refund Customer any prepayment or payment related to the current term in an amount in proportion to the time remaining on the term or renewal term.

#### C. TERMINATION DUE TO FORCE MAJEURE.

The performance of each Party under the Agreement may be subject to interruptions or reductions due to an event of Force Majeure. The term "Force Majeure" shall mean an event or circumstance beyond the control of the Party claiming Force Majeure, which, by exercise of due diligence and foresight, could not reasonably have been avoided, including, but not limited to, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, strike, and act of God or any other cause beyond the control of the Party claiming Force Majeure. However, the obligation to use due diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is

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inadvisable in the discretion of the Party having such difficulty. A Party shall not be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to an event of Force Majeure.

D. **TERMINATION FOR DEFAULT.** A Party shall be considered in default of this Agreement upon: (i) the failure to perform or observe a material term or condition of this Agreement, including, but not limited to, any material default of a representation, warranty or covenant made in this Agreement; (ii) the Party (a) becoming insolvent; (b) filing a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law or consenting to the filing of any bankruptcy or reorganization petition against it under any similar law; (c) making a general assignment for the benefit of its creditors; or (d) consenting to the appointment of a receiver, trustee or liquidator; and (iii) the purported assignment of this Agreement in a manner inconsistent with the terms of this Agreement; and (iv) the failure of the Party to provide information or data or the other Party as required under this Agreement, provided that the Party entitled to the information or data under this Agreement require such information or data to satisfy its obligations under this Agreement. The non-defaulting party may terminate this Agreement with ten (10) days written notice. Said notice shall include a termination date (hereinafter "Termination Date"). Should WebQA default, in addition to other remedies provided by law, WebQA shall, within twenty (20) days refund to Customer a pro rata amount of fees paid as of the Termination Date.

WebQA may terminate service(s) if payments are not received by WebQA as specified in Schedule A. All monies associated to the current term will be due immediately.

E. **EFFECT OF TERMINATION.** Upon any termination, WebQA will discontinue service(s) under this Agreement; WebQA will provide Customer with an electronic copy of all of Customer's data in a format agreeable to Customer, if requested and at a cost of no more than two thousand five hundred dollars (\$2,500.00); and, provisions of

this Agreement regarding ownership, liability, confidentiality and miscellaneous will continue to survive.

### **5. INDEMNIFICATION:**

**To the fullest extent not prohibited by law, WebQA shall indemnify and hold harmless the City of Columbia, its directors, officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to attorney's fees) arising by reason of any act or failure to act, negligent or otherwise, of WebQA, of any subcontractor (meaning anyone, including but not limited to contractors having an agreement with WebQA or a subcontractor for part of the services), of anyone directly or indirectly employed by WebQA or by any subcontractor, or of anyone for whose acts the WebQA or its subcontractor may be liable, in connection with providing these services except as provided in this Agreement. This provision does not, however, require WebQA to indemnify, hold harmless or defend the City of Columbia from its own actions, inactions (willful or otherwise), or its own negligence, except as set out herein.**

### **6. ACCEPTABLE USE:**

Customer represents and warrants that the service(s) will only be used for lawful purposes and in a manner allowed by law. WebQA may, upon unlawful use of the service(s), request Customer to terminate access to any individual who is utilizing the service unlawfully and Customer agrees to promptly comply with such request unless such misuse is corrected or found to be lawful.

### **7. CONFIDENTIALITY:**

Each Party hereby agrees to maintain the confidentiality of the other Party's confidential and proprietary materials and information, including but not limited to, all information, knowledge or data not generally available to the public which is acquired in connection with this Agreement, unless disclosure is required by law. Each Party hereby agrees not to copy, duplicate, or transcribe any confidential documents of the other Party except as required in connection with their performance under this

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Agreement. WebQA will use reasonable efforts to insure that any WebQA contractors maintain the confidentiality of proprietary materials and information.

### **9. MISCELLANEOUS PROVISIONS:**

**A. GOVERNING LAW AND VENUE.** This Agreement will be governed by and construed in accordance with the laws of the State of Missouri. The venue for all litigation arising out of, or relating to this Agreement document, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.

**B. ASSIGNMENT.** WebQA shall not assign its rights and obligations under this Agreement, in whole or part, without prior written consent of Customer.

**C. GENERAL LAWS.** WebQA shall comply with all federal, state and local laws, statutes, ordinances, and rules and regulations.

**D. PUBLIC RECORDS ACT.** Customer is subject to the Missouri Sunshine Law. The Parties agree that the Agreement shall be interpreted in accordance with the provisions of the Missouri Sunshine Law as amended. WebQA shall maintain the confidentiality of information and records which are not subject to public disclosure under the Sunshine Law. Customer's records custodian shall serve as the custodian of records for open records requests. WebQA shall provide access, at no additional costs, to Customer's records custodian or his or her designee to all City Data to allow for the timely fulfillment of Sunshine requests.

**E. EQUAL OPPORTUNITY.** Customer is an equal opportunity, affirmative action employer pursuant to federal, state and local law. WebQA shall comply with federal, state and local laws related to equal opportunity. WebQA shall not discriminate based on race, color, religion, sex, national origin, ancestry, marital status, disability, sexual orientation or gender identity.

**F. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED.** WebQA shall comply with Missouri Revised Statute Section 285.530 in that WebQA shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. WebQA shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. WebQA shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. WebQA shall require each subcontractor to affirmatively state in its contract with WebQA that the subcontractor shall not knowingly employ, hire for employment or continue to employ an unauthorized alien to perform work within the State of Missouri. WebQA shall also require each subcontractor to provide WebQA with a sworn affidavit under the penalty of perjury attesting to the fact that the subcontractor's employees are lawfully present in the United States.

**G. NO WAIVER OF SOVEREIGN IMMUNITY.** In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either Party's rights or defenses with regard to each Party's applicable sovereign, governmental or official immunities and protections as provided by federal and state constitution and/or laws.

**H. NO THIRD-PARTY BENEFICIARY.** No provision of this Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such person a third-party beneficiary under this Agreement.

**I. SUBCONTRACTS.** None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of Customer. In using subcontractors, WebQA shall be responsible for all of their acts and omissions to the same extent as if the subcontractors were employees of WebQA.

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J. AMERICANS WITH DISABILITIES ACT. WebQA represents and warrants that its customer facing portal and software complies with all applicable provisions of the Americans with Disabilities Act and the regulations implementing the Act, including those regulations governing employment practices. WebQA shall continue to make the services, programs, and activities governed by this Agreement accessible to persons with disabilities as required by the Americans with Disabilities Act and its implementing regulations. Should WebQA fail to maintain compliance with the Americans with Disabilities Act and its regulations, such failure shall constitute a material breach of this Agreement.

### 10. TERM.

A. INITIAL TERM. The "Term" of this Agreement shall commence on the Effective Date, and shall continue until the date that is one (1) year following the Effective Date.

B. RENEWAL TERM(S). Thereafter, this Agreement shall automatically be renewed for successive terms of one year (each one year period shall be a "Renewal Term"), unless this Agreement is terminated pursuant to the provisions of this Agreement.

11. COSTS NOT TO EXCEED. The total cost to be paid to WebQA by Customer shall not exceed twenty two thousand eight hundred eighty dollars (\$22,880.00) for the initial term. Thereafter, WebQA shall charge Customer fees at the same level as other WebQA customers and the percent of increase for each renewal term shall not exceed five percent (5%) or the lowest rate of increase assessed to other WebQA customers, whichever is lower.

12. BILLING AND PAYMENT. Billing is due upfront at the beginning of each 12 month term. All fees for the initial term are billed on an annual basis at time of Effective Date, and due upon thirty (30) days of the receipt of invoice. This secures site, servers and resources necessary to begin project. If payment is not received by start of the initial term or for renewal terms by the start of each renewal term, WebQA has the right to suspend all services.

Furthermore, invoices accrue one percent (1%) per month past due. All payments should be made directly to WebQA. WebQA mailing address for all payments is:

**WebQA Accounts Receivable Department**  
900 S. Frontage Road, Suite 110  
Woodridge, IL 60517.

### 13. NOTICES.

A. The following persons are designated by the respective Parties to act on behalf of such Party and to receive all written notices and payment invoices:

#### IF TO CUSTOMER:

City of Columbia  
Finance Department  
P.O. Box 6015  
Columbia, MO 65205-6015  
ATTN: City Purchasing Agent

#### IF TO WEBQA:

WebQA, Inc.  
900 S. Frontage Rd. Suite 110  
Woodridge, IL 60517  
ATTN: Lisa Dowling

B. Any notice required by this Agreement to be given in writing or that either Customer or WebQA wishes to give to the other in writing shall be signed by or on behalf of the Party giving notice. The notice shall be deemed to have been completed when sent by certified or registered mail to the other Party at the address set forth herein, or delivered in person to said Party or their authorized representative.

C. WebQA's designated representative shall be available to meet with Customer at any time during the performance of the work and shall have full authority to act on WebQA's behalf on any matter related to this Agreement and/or the work.

14. INSURANCE. WebQA shall maintain, on a primary basis and at its sole expense, at all times

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during the life of this Agreement the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as Customer's review or acceptance of insurance maintained by WebQA is not intended to, and shall not in any manner limit or qualify the liabilities or obligations assumed by WebQA under this Agreement. Coverage to be provided as follows by a carrier with A.M. Best minimum rating of A-VIII.

A. Workers' Compensation & Employers Liability. WebQA shall maintain Workers' Compensation insurance coverage in accordance with Missouri Revised Statutes or provide evidence of monopolistic state coverage with the following limits: \$500,000 policy limit for each accident, \$500,000 policy limit for each disease claim, and \$500,000 for each employee with a disease claim.

B. Commercial General Liability. WebQA shall maintain Commercial General Liability at a limit of not less than \$2,000,000 Each Occurrence, \$3,000,000 Annual Aggregate.

C. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

D. Business Auto Liability. WebQA shall maintain Business Automobile Liability at a limit not less than \$2,000,000 Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event WebQA does not own automobiles, WebQA agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

E. WebQA may satisfy the minimum liability limits required for Commercial General Liability or

Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for either Commercial General Liability or Business Auto Liability. WebQA agrees to endorse Customer as an Additional Insured on the Umbrella or Excess Liability, unless the Certificate of Insurance state the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

F. The City of Columbia, its elected officials and employees are to be Additional Insureds with respect to the Project to which these insurance requirements pertain. A certificate of insurance evidencing all coverage required is to be provided at least ten (10) days prior to the Effective Date of this Agreement between WebQA and Customer. WebQA is required to maintain coverages as stated and required to notify Customer of a Carrier change or cancellation within two (2) business days. Customer reserves the right to request a copy of the policy. WebQA's insurance certificate shall be attached as Exhibit B.

G. The Parties hereto understand and agree that Customer is relying on, and does not waive or intend to waive by any provision of this Agreement, any monetary limitations or any other rights, immunities, and protections provided by the State of Missouri, as from time to time amended, or otherwise available to Customer, or its elected officials or employees.

H. Failure to maintain the required insurance in force may be cause for termination of this Agreement. In the event WebQA fails to maintain and keep in force the required insurance or to obtain coverage from its subcontractors, WebQA shall have the right to cancel and terminate this Agreement without notice.

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The insurance required by the provisions of this article is required in the public interest and Customer does not assume any liability for acts of WebQA and/or their employees and/or their subcontractors in the performance of this Agreement.

I. In addition to the insurance requirements set forth in this section, WebQA agrees to maintain for the duration of this contract cyber insurance as per the provided insurance certificate, which is attached as part of Exhibit B.

**15. PATENT, COPYRIGHTS, AND PROPRIETARY RIGHTS INDEMNIFICATION.**

WebQA shall protect Customer against all suits for patent infringement on software, materials, equipment, and methods used. If WebQA is required or desires to use any design, device material, or process covered by letter patent or copyright, WebQA shall arrange and provide for such use by suitable agreement with the patentee or owner, and a copy of the agreement may be required by Customer. WebQA shall indemnify, defend and save harmless Customer from any suit, claims, or damages arising from the infringement upon or use of any patented or copyrighted design, device, material, software, or process.

**16. NATURE OF CUSTOMER'S OBLIGATIONS.**

All obligations of Customer under this Agreement, which require the expenditure of funds, are conditional upon the availability of funds budgeted and appropriated for that purpose.

**17. CLOUD BASED SOFTWARE SOLUTIONS AND THE STORAGE OF DATA ON SERVERS NOT OWNED BY WEBQA.**

*This section only applies if WebQA stores Customer's Data on servers not owned by WebQA.* If WebQA's software solution includes the use of cloud storage or hosted systems, WebQA shall comply with Customer's Cloud Computing Requirements contained in Exhibit C. In addition, WebQA shall abide by the following requirements when WebQA stores Customer's Data on servers not owned by WebQA.

A. Should WebQA opt to store CustomerData on

servers not owned by WebQA, WebQA shall provide written notice to Customer of the location of the servers on which Customer's Data is stored and the legal name and address of the owner(s) of the servers on which Customer's Data is stored (hereinafter "Server Owner"). Prior to changing the location of the server or the Server Owner(s), WebQA shall provide written notice to Customer of any location change or change in the Server Owner(s). Said notice shall include the location of the servers, the legal name, and address of the Server Owner(s).

B. Triggering Events. Should any of the following events occur (hereafter "Triggering Event"), WebQA shall provide written notice to Customer no later than five (5) business days after a Triggering Event has occurred. Each of the following events is a Triggering Event:

i. Triggering Events related to WebQA:

- a. WebQA becomes insolvent;
- b. WebQA files a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law;
- c. WebQA consents to the filing of any bankruptcy or reorganization petition filed against it under any federal or state bankruptcy law;
- d. WebQA has made a general assignment for the benefit of its creditors;
- e. WebQA has consented to the appointment of a receiver, trustee or liquidator;
- f. WebQA has received a notice of default of the agreement between WebQA and Server Owner;

g. WebQA has provided Server Owner with a notice of default of the agreement between WebQA and Server Owner; or

h. WebQA has knowledge of a Triggering Event related to Server Owner.

ii. Triggering Events related to Server Owner:

- a. Server Owner becomes insolvent;
- b. Server Owner files a voluntary

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petition in bankruptcy under any provision of any federal or state bankruptcy law;

c. Server Owner consents to the filing of any bankruptcy or reorganization petition filed against it under any federal or state bankruptcy law;

d. Server Owner has made a general assignment for the benefit of its creditors; or

e. Server Owner has consented to the appointment of a receiver, trustee or liquidator.

### C. Effect of Triggering Event.

i. Upon the occurrence of a Triggering Event related to WebQA under Section 19 (b)(i)(a)-(f), WebQA shall provide to Customer, at no cost, a method of migrating or exporting all electronic records or Customer Data in a usable basis in a method and format acceptable to Customer.

ii. Upon the occurrence of a Triggering Event under Section 40 (b)(i)(g), 19(b)(i) (h), or 40(b)(ii)(a)-(e), WebQA shall provide Customer with written notice of the Triggering Event and shall transfer Customer Data to either servers owned by WebQA or to another Server Owner. WebQA shall provide Customer with notice of the location of Customer Data and the name and address of the Server Owner.

### 18. DATA OWNERSHIP AND SECURITY.

WebQA and its software shall comply with the requirements of this Section. WebQA shall require its subcontractors or third party software providers to at all times comply with the requirements of this section.

A. WebQA further covenants that any data entered into the software from Customer, its employees or customers or derived therefrom (previously and hereinafter "Customer Data") shall be stored in the United States of America. Customer Data shall not be transferred, moved, or stored to or at any location outside the United States of America.

B. WebQA shall maintain the security of Customer Data and that of Customer's customers and any user that is stored in or in

any way connected with Software Products and applications. If either Party believes or suspects that security has been breached or Customer Data compromised whether it be from harmful code or otherwise, the Party shall notify the Other Party of the issue or possible security breach within forty-eight (48) hours.

C. NO HARMFUL CODE. WebQA warrants that the software products do not contain harmful code. For purposes of this Agreement, "Harmful Code" is any code containing any program, routine, or device which is designed to delete, disable, deactivate, interfere with or otherwise harm any software, program, data, device, system or service, including without limitation, any time bomb, virus, drop dead device, malicious logic, worm, Trojan horse or trap or back door. "Harmful Code" shall also include any code containing any program, routine, or device which is designed to monitor consumers in the privacy of their home or during other private activities without their knowledge, including but not limited to the use programs to monitor the use of audio beacons emitted by television contained in software programs such as Silverpush or other comparable program or the use of video or photographic content without the consumers consent. WebQA shall include in contracts with any subcontractor a provision which prohibits the use of Harmful Code.

19. PCI COMPLIANCE. *This section only applies if WebQA's software, or any upgrade to the software, stores, processes or allows the use of credit cards and/or debit cards.* If any software module or software upgrade includes the storage, processing, or use of credit cards and/or debit cards, WebQA shall comply and shall warrant that the WebQA's software and services (including any modifications, customizations or interfaces) comply with the Payment Card Industry (PCI) Data Security Standards and the rules and regulations of payment card industry organizations including Visa, MasterCard,



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Discover, and any other applicable payment card industry organizations. WebQA shall further warrant that such software and/or modules be in compliance with Good Financial Industry and Accounting Practices; SAS70 auditing standards; NACHA (The Electronic Payments Association) Operating Rules; and Customer's Red Flag Policy as applicable. Customer shall further require that any subcontractor's software, modules, or upgrades be in compliance with this section in its contracts with those subcontractors or third party software providers. Compliance is required to be maintained with all listed applicable regulations, standards, etc. as they are updated and modified over the time period of the agreements. WebQA shall notify Customer promptly of their failure or subcontractor's failure to maintain such compliance. In addition to WebQA's hold harmless agreement, WebQA shall be required to bear the cost of any fees, penalties, or costs accrued to Customer because of such failure to maintain such compliance.

**20. HIPAA COMPLIANCE.** *This section only applies if WebQA's software or any upgrade to its software is used to store or process any protected health information under the HIPAA.* If any software module or software upgrade includes the storage or use of protected health information under Health Insurance Portability and Accountability Act (HIPAA), WebQA shall warrant that its software complies with HIPAA.

WebQA shall:

- A. not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- B. use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- C. timely report to covered entity any use or disclosure of protected health information not provided for by the

Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;

- D. in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree, in writing, to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- E. make available protected health information in a designated record set to the Covered Entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
- F. make any amendment(s) to protected health information in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;
- G. maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
- H. to the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
- I. make its internal practices, books, and records available to the Secretary and to the Covered Entity for purposes of determining compliance with the HIPAA Rules.



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**21. CONDITIONS PRECEDENT TO ANY PERFORMANCE RELATED TO CUSTOMIZATIONS.** *This section only applies if WebQA shall provide any customizations to the Customer at the Customer's expense.*

**A. SATISFACTION OF CONDITIONS PRECEDENT.** The Conditions Precedent to Customer's obligation to pay for customizations and modifications shall be each and every one of the following; and under no circumstance shall the following contingencies or conditions precedent be deemed waived by Customer.

**B. CONDITIONS PRECEDENT.** For each modification or customization, the Parties shall develop proposed Specifications for each of the modifications or customizations (hereinafter "Custom Specifications"). The Parties shall reduce the Custom Specifications to writing which shall be signed by both Parties.

The Parties shall develop a schedule for production, testing, and installation (hereinafter "Custom Performance Schedule.") The Parties shall reduce the schedule to writing which shall be signed by both Parties.

The Parties shall agree in writing, signed and dated by both Parties, to the testing standards and requirements (hereinafter "Custom Test Standards").

Upon Customer's sole determination that WebQA has satisfied each and every one of the Conditions Precedent for each modification or customization, Customer shall issue to WebQA Customer's written authorization to proceed with its development and delivery of the customization or modification.

**C. FAILURE OF ANY CONDITION PRECEDENT TO CUSTOMIZATIONS/MODIFICATIONS.**

If each and every Condition Precedent is not satisfied, there is no penalty or cost to the Customer.

In addition, the Parties may, at their sole discretions and by mutual agreement, impose additional

requirements or amend the testing standards or the performance schedule.

Any and all amendments to the Custom Specifications, Custom Performance Schedule, and the Custom Test Standards. Should the Parties agree to change or amend the Custom Specifications, the Custom Performance Schedule or the Custom Test Standard, the changes shall be reduced to writing, signed, and dated by both Parties.

**D. EACH CUSTOMIZATION OR MODIFICATION ON WHICH THE CUSTOMER HAS ISSUED A WRITTEN NOTICE TO PROCEED, SHALL BE DEVELOPED ACCORDING TO THE CUSTOM SPECIFICATIONS IN THE TIME PERIODS SET FORTH IN THE CUSTOM PERFORMANCE SCHEDULE.** Upon completion of the development of the modification or customization, WebQA shall notify Customer that modification or customization is complete and ready for testing. Customer shall test the customization or modification according to the Custom Test Standards. If the modification or customization passes Customer's testing according to the Custom Test Standards, Customer shall issue a written notice of acceptance of the customization or modification.

**E. WARRANTY.** WebQA warrants that the customization or modification shall perform according to the Custom Specifications. WebQA also warrants that the customization or modification shall not void any other warranty.

**F. LICENSE FOR USE OF THE CUSTOMIZATION OR MODIFICATION.** WebQA grants Customer a royalty -free, non-exclusive, and irrevocable worldwide license to the customization or modification developed by WebQA for Customer according to Customer's Custom Specifications. This license is in addition to all other licenses purchased pursuant to this Agreement.

**G. MAINTENANCE OF FUNCTIONALITY OF CUSTOMIZATIONS AND MODIFICATIONS.** So long as Customer is current in its payment of fees, WebQA shall warrant the continued functionality of

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each and every one of the customizations or modifications and that each and every one of the customization shall perform according to the Custom Specifications by which it was developed. There shall be no additional cost to Customer. Maintaining the functionality of the Customizations and modifications shall include any necessary programming or redesign needed due to changes by third parties or by the WebQA. WebQA shall be responsible for maintaining the functionality of the customizations and modifications.

WebQA's services on this project described herein are superseded.

H. **ADDITIONAL CUSTOMIZATIONS/MODIFICATIONS.** Should Customer desire additional customizations/modifications be developed that are not listed in the Scope of Work, the Parties shall negotiate a written amendment to this Agreement.

**22. AGREEMENT DOCUMENTS:** The Agreement documents include this Agreement and the following attachments or exhibits, which are incorporated herein by reference.

Exhibit/Schedule	Description
A	Services and Fees
B	WebQA Insurance
C	City's Cloud Computing Requirements

In the event of a conflict between the terms of any Exhibit or Attachment and the terms of this Agreement, the terms of this Agreement control. In the event of a conflict between the terms of any Exhibit and any Attachment, the terms of the documents control in the order listed above.

**23. ENTIRE AGREEMENT:** This Agreement represents the entire and integrated Agreement between the Parties relative to the project herein. All previous or contemporaneous agreements, representations, promises and conditions relating to

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[SIGNATURE PAGE FOLLOWS]



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IN WITNESS THEREOF, the City of Columbia, Missouri and WebQA, Incorporated have caused this Agreement to be executed in their respective names by their duly authorized officers on the date set out below.

**CITY OF COLUMBIA, MISSOURI**

By: \_\_\_\_\_  
Mike Matthes, City Manager

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Nancy Thompson, City Counselor

**WEBQA, INCORPORATED**

By:  \_\_\_\_\_

Title: CEO

Date: 10/7/2016

ATTEST:

By: \_\_\_\_\_

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**SCHEDULE A**

**A. Service(s) Descriptions:**

Subscribed Services	
GovQA FOIA Service	FOIA Request Service platform that captures all requests received via letter, website, email, fax, or walk-in. Includes the ability to post completed records requests to the web for searching via the FOIA Public Archive portal.
GovQA FOIA Public Portal	Web Portal to capture FOIA or other public records requests and provide requestors with updates and history of previous requests.
GovQA FOIA Public Archive	Provides the ability to post completed FOIA or other public records requests to the web for searching via the FOIA Public Archive portal.

**B. WebQA Agrees to the Following Functionality Related to the Service(s):**

- (a) one-time setup of landing page with icons and links to Customer help areas;
- (b) branded labeling of landing page to the look and feel of Customer website (or iframe);
- (c) one-time setup and load of twenty five (25) answers into knowledge base;
- (d) one-time setup of citizen portal with branded labeling to the look and feel of Customer website (or iframe);
- (e) one-time setup of up to seven (7) request type related to Missouri Sunshine Law inquiries;
- (f) forms and letter templates: up to ten (10) custom letter templates;
- (g) future branding to Customer website is included once per billable term. Otherwise, branding is billed at ninety five dollars (\$95.00) per hour; and
- (h) special implementation action (integrations, etc.): integrate with the current online payment vendor utilized by the Customer (Converge; formerly Virtual Merchant) and provide continual maintenance and updates to ensure the online payment system is working correctly.

**C. Customer Agrees To:**

- (a) hold an implementation joint kickoff meeting with WebQA within fifteen (15) days of the Effective Date; and
- (b) build and execute project plan to be fully implemented within one hundred twenty (120) days of the Effective Date

**D. Training and Ongoing Support Included in Implementation and Subscription Fees:**

- (a) one (1) online administrator training;
- (b) two (2) online training session for all users;
- (c) ongoing support through system videos and knowledgebase;
- (d) periodic webinars to train and update customers on new features;
- (e) additional hours of online end-user training, may be purchased at a future date at one hundred twenty five dollars (\$125.00) per hour; and
- (f) Customer will log ALL ISSUES into WEBQA SUPPORT PORTAL at [www.supportqa.com](http://www.supportqa.com) to receive technical support.

# WEBQA MASTER SERVICE(S) AGREEMENT

## For GovQA FOIA Applications

### E. Fees:

<b>Redaction License Fees</b>			
<b>Software License(s)</b>	<b>Quantity</b>	<b>Monthly Fee</b>	<b>Annual Cost</b>
GovQA Redaction Licenses	4	\$100.00	\$1,200.00

<b>Software Subscription Fees</b>		
<b>Software License(s)- City of Columbia</b>	<b>Monthly Cost</b>	<b>Annual Cost</b>
GovQA FOIA Services as Described in Section A – Unlimited Users	\$995.00	\$11,940.00
Social Media Archive- Unlimited Accounts, Unlimited Records	\$195.00	\$2,340.00
Online Payment Connector	\$200.00	\$2,400.00
<b>Total (Includes all Service(s) upgrades)</b>	<b>\$1,390.00</b>	<b>\$16,680.00</b>

<b>One Time Implementation Costs</b>	
GovQA FOIA Implementation Services as Described in Section B	\$4,000.00
Online Payment Connector Set Up Fee	\$1,000.00
<b>Total</b>	<b>\$5,000.00</b>

**Data:** Customer Data is owned by Customer. All document attachment storage is via an Amazon S3 standard storage account provisioned by WebQA. 300GB of storage is included in the fees set forth above, with every additional 100GB of storage being assessed a fee of twenty dollars (\$20.00) per month. Additionally, 500GB per month of document attachment retrieval is included. Every 500GB over the allotted 500GB of document retrievals per month will be assessed a twenty five dollar (\$25.00) fee per month.