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**Addendum to Software License Agreement**

This ADDENDUM ("Addendum"), dated \_\_\_\_\_, is entered into by and between the **City of Pembroke Pines**, a Florida municipal corporation located at 601 City Center Way, Pembroke Pines, FL 33025 ("CITY") and **FileOnQ, Inc.**, a Washington for profit corporation, with a principal address of 832 Industry Dr, Tukwila, WA 98188 ("VENDOR"). The Software License Agreement and this Addendum may be collectively referred to herein as the "Agreement".

1. **Payment Terms.** All payments shall be governed by the Local Government Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes. Prices applicable to CITY do not include applicable state and local sales, use and related taxes. The CITY is exempt from state and local sales and use taxes and shall not be invoiced for the same. Upon request CITY will provide Company with proof of tax-exempt status.
2. **Termination.** The Agreement may be terminated by CITY for convenience, upon providing fourteen (14) days written notice of such termination to VENDOR, in which event VENDOR shall be paid for services performed till the date of termination. The Agreement shall remain in full force and effect, only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Pembroke Pines in the annual budget for each fiscal year of the Agreement, and is subject to termination based on lack of funding.
3. **Governing Law and Venue.** The Agreement shall be governed by and construed in accordance with the laws of the State of Florida as now and hereafter in force. The venue for any and all actions or claims arising out of or related to the Agreement shall be in Broward County, Florida.
4. **Non-Discrimination & Equal Opportunity Employment.** During the performance of the Agreement, neither VENDOR nor any subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. VENDOR will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. VENDOR shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. VENDOR further agrees that VENDOR will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.
5. **Confidentiality.** The Parties acknowledge that during the course of VENDOR' provision of services to CITY, CITY may provide VENDOR with access to non-public information,



personal information, or sensitive information that a reasonable person would understand to be confidential or private information belonging to CITY, during the provision of services by VENDOR, VENDOR agrees to treat the before mentioned categories of information as strictly confidential. All confidential information provided to VENDOR shall solely be used for the purpose of rendering services pursuant to the Agreement and shall not be disclosed to any third party without the prior consent of CITY. The foregoing shall not be applicable to any information that is publicly available when provided or which thereafter becomes publicly available other than in contravention of this section or which is required to be disclosed by law.

6. **Public Records.** The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. VENDOR shall comply with Florida's Public Records Law. Specifically, VENDOR shall:

- 6.1 Keep and maintain public records required by the CITY to perform the service;
- 6.2 Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- 6.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, VENDOR shall destroy all copies of such confidential and exempt records remaining in its possession after VENDOR transfers the records in its possession to the CITY; and
- 6.4 Upon completion of the Agreement, VENDOR shall transfer to the CITY, at no cost to the CITY, all public records in VENDOR's possession. All records stored electronically by VENDOR must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.
- 6.5 The failure of VENDOR to comply with the provisions set forth in this Article shall constitute a default and breach of the Agreement, for which, the CITY may terminate the Agreement in accordance with the terms herein.

**IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**



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**CITY CLERK**  
**601 CITY CENTER WAY, 4th FLOOR**  
**PEMBROKE PINES, FL 33025**  
**(954) 450-1050**  
**mgraham@ppines.com**

7. **Notice.** Whenever any Party desires to give notice unto any other Party, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining Party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, VENDOR and CITY designate the following as the respective places for giving of notice:

CITY: Charles F. Dodge, City Manager  
City of Pembroke Pines  
601 City Center Way, 4<sup>th</sup> Floor  
Pembroke Pines, Florida 33025  
Telephone No. (954) 450-1040

Copy To: Samuel S. Goren, City Attorney  
Goren, Cherof, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, Florida 33308  
Telephone No. (954) 771-4500  
Facsimile No. (954) 771-4923

VENDOR: **Ramona Maylon, Evidence Specialist & Consultant**  
**FileOnQ, Inc.**  
**832 Industry Drive**  
**Seattle, WA 98188**  
Telephone No: (800) 603-6802, Extension 153  
Facsimile No. (206) 575-3927  
E-mail: **RamonaM@fileonq.com**

8. **Compliance with Laws.** VENDOR hereby warrants and agrees, that at all times material to this Addendum, VENDOR shall perform its obligations in compliance with all applicable federal, state, local laws, rules and regulations. Non-compliance may constitute a material breach of this Addendum.
9. **Scrutinized Companies.** VENDOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations with Syria. In accordance with



§287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:

- 9.1 Any amount if, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to §215.4725, Florida Statutes, or is engaged in a boycott of Israel; or
- 9.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
  - 9.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to §215.473, Florida Statutes; or
  - 9.2.2 Is engaged in business operations in Syria.

10. **Employment Eligibility.** VENDOR certifies that it is aware of and complies with the requirements of §448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

10.1 **Definitions for this Section.**

- 10.1.1 "Contractor" means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. "Contractor" includes, but is not limited to, a vendor or consultant.
- 10.1.2 "Contractor" includes, but is not limited to, a vendor or consultant.
- 10.1.3 "Subcontractor" means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.
- 10.1.4 "E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

- 10.2 **Registration Requirement; Termination.** Pursuant to §448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:



- 10.2.1 All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and
  - 10.2.2 All persons (including subvendors/subconsultants/subcontractors) assigned by Contractor to perform work pursuant to the contract with the City of Pembroke Pines. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and
  - 10.2.3 The Contractor shall comply with the provisions of Section 448.095, Florida Statutes., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.
11. **Assignment; Amendments.** The Agreement, and any interests herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by VENDOR without the prior written consent of the CITY. For purposes of the Agreement, any change of ownership of VENDOR shall constitute an assignment which requires the CITY approval. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the Parties.
  12. **Access to Records.** Upon request and reasonable notice, CITY shall have access and the right to examine any books, documents, accounting records, data, logs, reports and other records directly pertinent to VENDOR's performance pursuant to the Agreement during the term of the Agreement during normal business hours, until the expiration of five (5) years after final payment hereunder unless all records are transferred to CITY upon termination of Agreement.
  13. **Attorneys' Fees.** In the event that either Party brings suit for enforcement of the Agreement, each Party shall bear its own attorney's fees and court cost unless otherwise provided for in this Addendum.



14. **Sovereign Immunity.** Nothing contained in the Agreement is intended nor shall be construed to waive CITY's rights and immunities under the common law or §768.28, Florida Statutes, as may be amended from time to time. CITY shall not be required to indemnify VENDOR and instead agrees to remain liable for claims or damages arising during the term of the Agreement to the extent such claims or damages are caused by the negligence, recklessness, or intentional wrongful misconduct of CITY and only to the extent permitted by law as set forth in §768.28, Florida Statutes. Furthermore, CITY shall not be required to mediate or arbitrate any claims arising from or related to the Agreement. Any decision to mediate or arbitrate shall be subject to the prior approval of the CITY Commission and shall be non-binding, unless otherwise consented to by the CITY.
15. **Insurance.** VENDOR expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided by VENDOR shall in no way limit the responsibility to indemnify, keep and save harmless and defend the CITY or its officers, employees, agents and instrumentalities as herein provided.
  - 15.1 VENDOR shall not commence work under the Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall VENDOR allow any subcontractor to commence work on any subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.
  - 15.2 Certificates of Insurance, reflecting evidence of the required insurance, shall be filed with the CITY's Risk Manager prior to the commencement of the Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.
  - 15.3 Certificates of Insurance shall provide for thirty (30) days' prior written notice to the CITY in case of cancellation or material changes in the policy limits or coverage states. If the carrier cannot provide thirty (30) days' notice of cancellation, either VENDOR or their Insurance Broker must agree to provide notice.
  - 15.4 Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the CITY. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of the Agreement, VENDOR shall furnish, at least forty-five (45) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. VENDOR shall neither commence nor continue to provide any services pursuant to the Agreement unless all required insurance remains in full force and effect. VENDOR shall be liable to the CITY for any lapses in service resulting from a gap in insurance coverage.



**15.5 REQUIRED INSURANCE.** VENDOR shall be required to obtain all applicable insurance coverage, as indicated below, prior to commencing any work pursuant to the Agreement:

Yes No

☒ **15.5.1 Comprehensive General Liability Insurance** written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than:

Each Occurrence Limit - \$1,000,000

Fire Damage Limit (Damage to rented premises) - \$100,000

Personal & Advertising Injury Limit - \$1,000,000

General Aggregate Limit - \$2,000,000

Products & Completed Operations Aggregate Limit - \$2,000,000

Products & Completed Operations Coverage shall be maintained for the later of three (3) years after the delivery of goods/services or final payment under the Agreement. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

Yes No

☒ **15.5.2 Workers' Compensation and Employers' Liability Insurance** covering all employees, and/or volunteers of VENDOR engaged in the performance of the scope of work associated with the Agreement. In the case any work is sublet, VENDOR shall require the subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by VENDOR. Coverage for VENDOR and all subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

1. Workers' Compensation: Coverage A – Statutory

2. Employers Liability: Coverage B \$500,000 Each Accident

\$500,000 Disease – Policy Limit

\$500,000 Disease – Each Employee

If VENDOR claims to be exempt from this requirement, VENDOR shall provide the CITY proof of such exemption for the CITY to exempt VENDOR.

Yes No

☒ **15.5.7 Cyber Liability** including Network Security and Privacy Liability with a limit of liability no less than \$1,000,000 per loss. Coverage shall include liability arising from: theft, dissemination and/or use of confidential information stored or transmitted in electronic form, unauthorized access to, use of, or



tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to your services, including denial of service, and the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network, or similar computer-related property and the data, software and programs thereon. If VENDOR is collecting credit card information, it shall cover all PCI breach expenses. Coverage is to include the various state monitoring and state required remediation as well as meet the various state notification requirements. This coverage shall be maintained for a period of no less than the later of three (3) years after delivery of goods/services or final payment of the Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY. The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.

15.6 REQUIRED ENDORSEMENTS.

15.6.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.

15.6.2 Waiver of all Rights of Subrogation against the CITY.

15.6.3 Thirty (30) Day Notice of Cancellation or Non-Renewal to the CITY.

15.6.4 VENDOR's policies shall be Primary & Non-Contributory.

15.6.5 All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.

15.7 Any and all insurance required of VENDOR pursuant to the Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by VENDOR and provided proof of such coverage is provided to the CITY. VENDOR and any subcontractors shall maintain such policies during the term of the Agreement.

15.8 The CITY reserves the right to require any other additional types of insurance coverage and/or higher limits of liability it deems necessary based on the nature of work being performed under the Agreement.

15.9 The insurance requirements specified in the Agreement are minimum requirements and in no way reduce any liability VENDOR has assumed in the indemnification/hold harmless section(s) of the Agreement.

16. **Independent Contractor.** The Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that VENDOR is an independent contractor under the Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage



and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. VENDOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out VENDOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under the Agreement shall be those of VENDOR, which policies of VENDOR shall not conflict with City, State, or United States policies, rules or regulations relating to the use of VENDOR's funds provided for herein. VENDOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. The Agreement shall not be construed as creating any joint employment relationship between VENDOR and the CITY and the CITY will not be liable for any obligation incurred by VENDOR, including but not limited to unpaid minimum wages and/or overtime premiums.

17. **Uncontrollable Forces.**

17.1 Neither CITY nor VENDOR shall be considered to be in default of the Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under the Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to: fire, flood, earthquakes, storms, lightning, epidemic, pandemic, acts of God, war, riot, civil disturbance, sabotage, and governmental actions.

17.2 Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of the Agreement.

18. **Ownership, Use, and Access to Data.** As used in this Addendum, all information, including personally identifiable information, non-public information, records, data, metadata, usernames, names, photos, content, agency information, and customer information, created accessed, processed, uploaded, or used during the term of the Agreement shall be collectively referred to as "Data". Data shall not include data that is utilized by VENDOR and authorized third parties in aggregate or anonymized form where all personally identifiable information, including direct and indirect personal identifiers and other non-public information has been removed and the data is de-identified. VENDOR and authorized third parties agree not to attempt to re-identify de-identified Data



and shall not transfer any Data or de-identified Data to any party unless that party agrees not to attempt to re-identification.

- 18.1 CITY grants to VENDOR and authorized third parties a limited, non-exclusive license to use, access, and process Data solely for the purpose of providing and supporting the functions and use of VENDOR's services. Data may not be used for any unauthorized commercial purpose and may only be utilized specifically for providing services to, and improving services for CITY. CITY shall retain all rights, including intellectual property rights, title, and interest in Data. Data may not be used for any purpose other than outlined in this Addendum and in the Agreement, as modified hereby.
- 18.2 VENDOR does not have any rights, implied or otherwise, to Data except as expressly stated herein. This includes the right to sell or trade Data. Data shall not be exported or maintained outside of the United States.
- 18.3 VENDOR shall not change how Data is collected, used, or shared under the terms of Agreement in any way that is materially contrary to the provisions of this Addendum without advance notice in writing to CITY. Any such changes that alter the terms and requirements set forth in this Addendum shall only take effect upon CITY's written consent to such changes.
- 18.4 VENDOR shall not make Data available to any third-party except as permitted herein, as may be required to provide its services to CITY, as directed by CITY, or required by law. Data shall only be accessed and processed by VENDOR and authorized third parties to the extent necessary for VENDOR to render the services required by the Agreement, as modified by this Addendum. Authorized third parties engaged by VENDOR shall agree to adhere to the requirements set forth in this Addendum, the Agreement, as modified hereby.
- 18.5 VENDOR will ensure that all Data in its possession and possessed by any approved third-parties or agents, will be destroyed or transferred to CITY when the Data is no longer needed for its specified purpose or at the request of CITY.
- 18.6 VENDOR further agrees to use and process Data, in accordance with industry standards. This includes appropriate administrative, physical, and technical safeguards to secure Data from unauthorized access, disclosure, and use. VENDOR shall conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. VENDOR will also have a written incident response plan, to include prompt notification of CITY in the event of a security or privacy incident, as well as best practices for responding to a data or cyber security breach. VENDOR agrees to share a summary of its incident response plan with CITY upon request.
19. **Entire Agreement.** The Parties agree that the Software License Agreement and this Addendum shall represent the entire and integrated agreement between CITY and



VENDOR and supersede all prior negotiations, representations or agreements, either written or oral. The Agreement is intended by the Parties hereto to be final expression of the Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made.

20. **Conflict.** In the event of any conflict or ambiguity by and between the terms and provisions of the Software License Agreement and this Addendum, the Parties agree the terms and provisions contained in this Addendum shall control to the extent of any such conflict or ambiguity.
21. **Binding Authority.** Each person signing this on behalf of either Party individually warrants that he or she has full legal power to execute this Addendum on behalf of the Party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in the Agreement.
22. **Counterparts and Execution.** The Agreement may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of the Agreement by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other party through facsimile transmission, email, or other electronic delivery.

**SIGNATURE PAGE FOLLOWS**



IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

**CITY:**

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

\_\_\_\_\_  
MARLENE D. GRAHAM, CITY CLERK

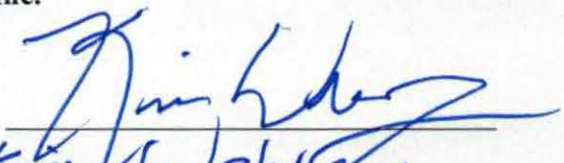
BY: \_\_\_\_\_  
MAYOR FRANK C. ORTIS

APPROVED AS TO FORM: \_\_\_\_\_  
CHARLES F. DODGE, CITY MANAGER

Print Name: \_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY

**VENDOR:**

FileOnQ, Inc.

Signed By:   
Name: Kim Webber  
Title: CEO