

COUNCIL ACTION FORM

**SUBJECT: APPROVING A CONTRACT WITH UNITED PUBLIC SAFETY FOR
PARKING ENFORCEMENT HARDWARE AND SOFTWARE**

BACKGROUND:

For over seven years the Police Department's Parking Division has operated with six handheld electronic ticket writers. Those devices utilize software from Duncan Technology and interface with the City's financial systems through an independent program developed by IT staff. Duncan Technology officially discontinued support of the ticket writers on July 1, 2019. Because the ticket writers are no longer covered by contract, repairs have been on a time and materials basis. Recognizing that that support from Duncan Technology had become unreliable, the new generation of ticket writers would not operate on the existing software, and advancements in technology would provide new solutions to existing operational problems (like digital chalking, graduated fine structures, and interfaces with ParkMobile); staff determined that it was in our best interest to issue an RFP to completely replace the existing system with an up-to-date, fully functional, and integrated parking enforcement and information management system.

The Request For Propooosal (RFP) Process

An RFP was issued in July of 2019. A review team consisting of 2 Parking Enforcement staff, 2 Police Administration staff, an IT representative, and a Purchasing representative reviewed all responses. The City received 10 responses from various vendors. Four were eliminated as unresponsive or unable to meet core requirements. Five of the remaining six were interviewed by the team including demonstrations of the equipment and software (the 6th was extremely high priced and eliminated for that reason). Following the interviews and testing, 2 finalists were identified, and references checked. As part of that process, Parking Enforcement staff members had an opportunity to work with test ticket writing devices and the supporting software from each vendor. **The team ultimately determined that the program and equipment offered by United Public Safety (the highest scoring response) should be our recommendation for purchase.**

The five finalists included the two largest companies in the business – T2 and Cardinal. It was clear that the responses from both of the companies were priced well above the budget originally established at approximately \$56,000. They were included to make sure that lower priced alternatives did not lack in some critical feature or functionality. The team concluded that they did not. All vendors in the interview group were able to provide a comprehensive and well-functioning system, and they also met the City's specific function requirements (like the ability to handle graduated fines and interface with Park Mobile). Each vendor had an easy to use web portal for both the Parking Enforcement staff and the

parking customer as well as provided live connectivity with a parking data base.

With those results, pricing became a major factor in the final determination. An additional consideration that was given special attention was system access and security. The City's current vendor, Glick2Gov, has experienced several incidents of data breach. The team reviewed the system security for each of the vendors.

The business plans and funding models offered by the responding companies varied so widely that the team was not able to directly compare pricing in the initial evaluation. A set of follow up questions was issued to all interviewed respondents asking for clarification on costs. Still, funding models were so diverse that comparisons were difficult. T2's and Cardinal's upfront costs would have exceeded \$100,000. The other three remained at or close to our budget. The team estimated the costs to the City for each proposal as follows:

Vendor	First year costs	5-year cost of ownership
United Public Safety*	\$3,888.00	\$19,440.00
Passport*	\$16,210.00	\$34,170.00
IParq	\$14,050.00	\$79,050.00
Cardinal	\$108,247.00	\$135,554.00
T2	\$112,320.00	\$205,796.00

***Additional convenience fee charged to violators who pay citations on-line and retained by vendor are not included in these expenses.**

These costs reflected above also do not include expenses for citation and envelope paper stock, or cell connectivity, which are similar across the vendors.

The team ultimately determined that the program and equipment offered by United Public Safety (UPsafety) should be recommended for purchase.

United Public Safety's Program

UPsafety's program is a cloud-based system that offers both the best ticket writers with their supporting software and back-end software that supports a wider range of functions. The ticket writer software met all of the requirements of the RFP. The back-end software supports citation tracking, appeals, complaints, towing records, citation payment, system generated delinquency letters, report writing, permit management, and other parking related functions. UPsafety's strong customer service focus, as demonstrated during their presentation and by their references, was an additional factor that led to the recommendation for their selection.

UPsafety's offer is based on a service fee model that is different than how Parking has operated in the past. UPsafety proposes the system cost be primarily funded through a \$3.00 per citation convenience fee paid by violators when they pay a citation on-line through UPsafety's ticket payment portal. UPsafety provided estimates based on our local ticket writing history of what they believe will be the revenue derived

from this pricing structure. Averaging their estimates to 20,000 citations paid on-line annually, UPsafety expects annual revenue of approximately \$60,000. **It is important to emphasize that citations that are paid by mail or in-person do not carry the \$3.00 fee or generate City expense.**

The City would also pay the credit card processing fee associated with the on-line payment. That would be 2.9% of the citation amount plus .25 cents per citation. For a \$20.00 citation that would be .83 cents per citation. **The City already pays a similar processing fee for citations paid on-line through Glick2Gov so this does not represent a new expense.**

On-line payments are made through UPsafety's managed web portal, not through Click2Gov. Because the core of UPsafety's business model relies on on-line citation payment, the resources dedicated to system security impressed the review team. **The on-line system is hosted through Microsoft Azure Government Cloud and meets multiple industry and government security standards including those of the Criminal Justice Information System (CJIS).**

This service fee model covers most of the City's cost for acquisition and maintenance of this system. Some of the items that are included in the funding model are:

- Licenses for both the ticket writer and the backend software.
- Maintenance of the software including enhancements and upgrades.
- Six ticket writers including a maintenance contract that replaces the ticket writers at approximately 3-year intervals.
- An overnight service program for the ticket writers that includes an additional ticket writer on standby and available for immediate delivery.
- Warranty on the hardware provided by UPsafety.
- System implementation including local configuration and customization.
- On-site training.
- Conversion of 5-years of Duncan Technology data to seed the new system with existing data.
- 24/7 support on-line and through UPsafety's call center.
- A parking permit management module with a customer-oriented web portal.

The recommendation includes ticket writing hardware that is one-piece (the printer is directly attached to the ticket writer rather than a separate piece). These one-piece ticket writers were offered as an alternative in the UPsafety response and require a lease agreement in addition to the service fee model. The lease covers all maintenance on the hardware and the hardware is still eligible for replacement on the 3-year cycle. This upgrade will result in an annual lease fee of \$3,888. Our current annual fee for maintenance on the Duncan ticket writers is \$3,833.

The new ticket writers maintain a live connection with the cloud database. This allows the officer in the field to access accurate, real-time records and so they will know when a graduated fine is appropriate, when a vehicle has been cited before, or when an area has been granted free parking for a period of time. It will also facilitate the enforcement of the

ParkMobile meters. That is currently accomplished by a separate cell phone that is carried by enforcement officers. The officer must check the on-line ParkMobile status of a meter before an overtime citation can be issued. It is cumbersome and inefficient. There are currently five cell phones dedicated to this function and the cell service fee is paid by Public Works. All six new ticket writers will be cell-enabled. The cell service fee is approximately \$40.00 per unit per month. Because the five cell phones will be decommissioned, those dollars can support the new ticket writers. The expense increase for cell service for the additional ticket writer will be approximately \$480.00 per year.

There will be costs for citation paper stock and envelopes, but those expenses are expected to be equivalent to existing costs. There may be some printing set-up costs if we chose to design a citation that is not a standard for UPSafety. Those set-up costs are one-time and not expected to be significant.

This system also includes an integrated on-line permit management module. The module will allow the City to manage the permit parking in all City lots. It will also allow citizens the option to purchase available permits on-line without having to come to City Hall. **Online permit sales will be subject to the convenience fee, however, in-person sales in City Hall will carry no additional cost beyond the basic permit.** For example, the permits issued to City employees for Lot M can be entered with no cost. Customers who choose to purchase permits on-line will pay the \$3.00 convenience fee. There is no additional cost for the permit module.

Stakeholders Feedback

As the City Council has directed, the staff has relied on the leaders of the Campustown Action Association and Downtown Ames to share the information that we provided them about this proposed parking enforcement system with business and property owners in their perspective districts. Initially, a meeting was held with the leaders to explain the new system. Real-time access to parking records and ParkMobile as well as the on-line payment fee were presented and discussed. A request then was made to the district leaders to notify the merchants of this new system. Copies of the feedback received from Karin Chitty and Drew Kamp is attached for your consideration.

ALTERNATIVES:

1. Approve the contract with United Public Safety for parking enforcement hardware and software.
2. Do not approve the contract with United Public Safety and approve one of the other proposals received by the City for new parking enforcement hardware and software.

CITY MANAGER'S RECOMMENDED ACTION:

Parking enforcement is a critical function for the City. The vendor for the current equipment and software no longer provides support, requiring that system be replaced. The proposal

from UPsafety meets the needs of the Parking Division at a cost that is a best value to the City. The UPsafety system carries no major, upfront capital expense. The primary funding for the system costs comes through a \$3.00 per citation convenience fee paid by violators when citations are paid on-line through the UPsafety web portal. UPsafety retains the \$3.00 fee. **Violators can completely avoid the fee if they elect to pay for the citation in person at City Hall, by using the payment drop box at City Hall, or by U.S. mail.** This model allows customers to balance low cost with the convenience of paying on-line in a secure environment. It also limits cost increases to the Parking Fund. The City's on-going annual expenses to maintain the system are expected to be similar to current expenses.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving the contract with United Public Safety.



campustown
action
association

Campustown Action Association
119 Stanton Ave, Suite 602
Ames, IA 50014

April 7, 2020

Honorable Mayor Haila and City Council Members,

I am writing to you today regarding the proposed change to the software used by the Parking Division. CAA representatives met with Parking Staff in early March. At that time, we were provided with the staff report, as well as additional information about the preferred choice of software vendor. We agreed to help gather some feedback.

Unfortunately, we have not received much response. This is likely due, at least in part, to the social distancing circumstances we find ourselves in. At the same time, it is not unusual to receive only a small sample back from business owners in the district. CAA used several methods of soliciting feedback; these include our electronic newsletter, emails and phone calls. Responses came mostly from CAA board members with a few business members responding as well. All correspondence received on this topic was positive, with several indicating they felt the changes were likely to go unnoticed by the public. We did not receive any feedback from non-members.

CAA is still comfortable supporting the implementation of the new software. The devices currently being used are outdated and a change is necessary. It is apparent care was given to select a product which will offer enhanced security, be compatible with Park Mobile, and provide additional online services. Those who choose to utilize the online payment system will pay for the convenience. Those who do not wish to use the online system, will continue to have the other options currently available. Should the decision be made to move forward, we would be happy to continue to disseminate this information to the public to help educate and ease the transition as needed. Please let me know if you have any questions.

As always thank you for your time,

Karin Chitty
Executive Director

To: "Diane R Voss" <DVoss@city.ames.ia.us>
From: "drew kamp" <drew@ameschamber.com>
Date: 04/07/2020 12:54PM
Cc: "Sheri Nelson" <snelson@city.ames.ia.us>, "Steve Schainker" <sschainker@city.ames.ia.us>
Subject: AMS Outreach Regarding Parking Service Recommendation Agenda Item

Steve and Diane, Sheri asked I let you know the outreach efforts Ames Main Street has taken to let AMS members know of the new parking service provider to be taken to Council a week from today.

With everyone working remotely, we have sent it out in 2-3 member wide emails, which go to over 1,000 email addresses.

Once the agenda is available, we will share the information once again with AMS members to ensure they are aware of the item, information contained in the Council Action Form, and the ultimate staff recommendation to Council.

It is important to note AMS staff has been informed of the proposed changes and the recommended options moving forward and we are supportive of moving forward in this manner.

Please let me know if you have any questions or if additional information is needed. Thanks and have a nice day.

Drew Kamp
Vice President
Ames Chamber of Commerce



SOFTWARE LICENSE AND SERVICE AGREEMENT

The following terms, including the terms and conditions found in all Exhibits (the "Agreement"), represent the full understanding of United Public Safety, Inc. ("UPsafety") and the Party named below ("Client" and with UPsafety, the "Parties" and each individually a "Party"). In exchange for the mutual covenants herein and other good and valuable consideration, the Parties agree and intend to be bound as follows:

I. General Terms

United Public Safety will provide services (the "Services") and license all software, including all web and mobile applications and related documentation, (the "Software") necessary for Client to operate a Citation Management Program ("CMP") which allows Client's parking enforcement officers to issue parking citations and allows Client to accept payment for parking citations and perform citation adjudication tasks.

Exhibits A - C listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the exhibits and any inconsistency between the Exhibits will be resolved in their listed order, which include:

- Exhibit A: SaaS Terms and Conditions
- Exhibit B: Agreement to Purchase
- Exhibit C: Warranty Information

II. Term and Termination

The Term and Conditions of the Agreement will remain in effect for a period of THREE (3) years from the date (the "Effective Date") on which UPsafety signs this Agreement. On the third anniversary of the Effective Date, and on each anniversary date thereafter, this Agreement will automatically renew for a one-year period upon the same terms and conditions. If either the Client or UPsafety does not wish for any such renewal, it must notify the other party in writing of its intention not to renew no later than ninety (90) days prior to any such anniversary date, in which case this Agreement shall terminate on such anniversary date.

If handheld and training costs have been paid in full, either Party may terminate this Agreement for convenience with ninety (90) days' written notice, or terminate for cause with immediate effect in the event that it provides written notice to the other Party of a material breach and the breaching Party fails to cure the breach within fifteen (15) days after receiving written notice of the breach from the non-breaching Party. In the event this Agreement is terminated for convenience, the terminating

Party will be responsible for providing all services and/or paying all fees described herein that are incurred before the date of termination. In the event the Provider terminates this Agreement for cause UPsafety shall not be entitled to any further payment under this Agreement after the termination date set forth in the notice.

III. CityCite™ Platform Component Terms

UPsafety will provide the service, or services as specified in Exhibit B: Agreement to Purchase in conformance with the following Terms:

I. Physical Equipment

UPsafety will supply hardware to Client in the models and quantities set forth in the attached Agreement to Purchase, under the warranty terms attached in Exhibit C: Warranty Information.

All equipment provided by UPsafety under this Agreement will be standard new and unused equipment of the latest model available. Where any part or standard accessory of such equipment is not described, it shall be understood that all equipment and accessories that are provided standard with such equipment shall be furnished.

Client acknowledges that, if the equipment has not been purchased outright, that the equipment is the property of UPsafety, and Client agrees to exercise reasonable care of said equipment while in its possession.

Leased equipment that becomes lost or stolen will be the sole responsibility of the Client, and will be billed to the Client at the cost of:

N5Scan Z1 – Branded as CitePro™: \$2750.00

II. Data Plans

UPsafety will provide a Data Plan for each device requiring one, allowing data usage for the handheld devices, for the pricing laid out in the Agreement to Purchase. UPsafety expressly disclaims all warranties as to the network's reliability, fitness for a particular purpose or uptime.

III. Paper and Physical Consumables

Paper, Permits and other Physical Consumables will be provided in the configurations and quantities identified in the attached Agreement to Purchase. Additional paper can be purchased for the same terms.

If Client orders custom printer paper not quoted in the attached Agreement to Purchase, UPsafety will provide a separate Agreement to Purchase to Client detailing costs.

IV. Public Citation Management Portal

UPsafety will provide an online payment portal and an interactive voice response (IVR) system through which patrons may view, pay and dispute outstanding parking citations, as well as view, purchase and apply for permits. Service levels and other terms of use for this portal are governed by Exhibit A: Terms and Conditions.

V. Automated Notice Generation, Owner Lookups & Collections

Owner lookups will be handled directly by Client unless United Public Safety is requested to change this process.

If requested by Client, UPsafety will prepare all Delinquent Notices and Notice of Violations for outstanding tickets issued to vehicles bearing State of IA plates and Out-of-State plates (to the extent allowed by each State's DMV) to the last known registered owner(s). State agency approval will also be obtained where applicable. Such notices shall comply with state rules and regulations in all material respects.

If authorized by Client, citations which remain unpaid may be submitted to the IA Courts for escalation, and/or submitted to a collections agency to initiate a further collections process.

VI. Custom Software Development

Upon the request of the Client and the receipt by UPsafety of a signed purchase order, UPsafety may perform custom software development to customize the CityCite™, CodeCite™ or ForCite™ platforms to meet the Client's needs. Work will be performed in accordance with an issued Statement of Work ("SOW"), and will be performed in a professional and workmanlike manner in accordance with recognized industry standards and other specifications as outlined in the project specific SOW.

VII. Support & Issue Resolution

Through the life of the Contract, UPsafety will provide online, telephone and e-mail support to Client during the Term, providing live, direct UPsafety Product Support from 8:00 a.m. to 5:00 p.m. EST, Monday through Fridays. Additionally, Email and Voice Mail will be made available 24/7 and a reply will be generated by UPsafety initiating the Support call within 1 hour.

UPsafety Product Support will assist Clients in communications relating to, but not limited to:

- (1) Recommendations for optimal use of CMP
- (2) Problems with or questions pertaining to the operation of CMP
- (3) Problems with interfaces between CMP & other systems
- (4) Error messages from CMP
- (5) Printing issues related to Mobile Software
- (6) Questions about CMP customizable reporting tool

VIII. Shipping Costs

Client will bear all shipping costs incurred by UPsafety for the shipment of Paper, Equipment, Permits and all other physical components required to operate the CMP.

IX. Out of Scope Services

Additional services requested by the Client that are not described in this Agreement must be submitted in writing by the Client. UPSafety will prepare a statement of work along with a detailed cost estimate to be approved in writing by the Client prior to the implementation of said changes or additions. This includes, but is not limited to, requests for additional equipment, installation of additional sessions, Client requested software modifications and/ or relocation of equipment.

X. Service Level Agreement for Cloud Services

UPSafety will provide the software with uptime of at least ninety-nine point nine percent (99.9%) calculated over a rolling six-month period ("uptime guarantee"). For any month during which system uptime drops below the uptime guarantee, UPSafety will provide a billing credit in an amount equal to: the percentage difference between a) the lowest uptime reached at any point during the month (calculated on a rolling six-month period) and b) the uptime guarantee multiplied by the total fees payable to UPSafety for such month. For example, if during a given month the software uptime fell as low as ninety-five percent (95%) and during that month, the fees payable to UPSafety were one hundred dollars (\$100.00), UPSafety would issue a billing credit of four dollars and ninety cents (\$4.90). For the purposes of this agreement, uptime is defined as any period of time during which end users of the software can use the software to: (1) pay for parking citations and permits, and (2) issue and manage parking citations and permits.

IV. Merchant Processing Framework

In performing UPSafety's obligations in connection with the maintenance of the Public Citation Management Portal ("PCMP"), UPSafety will serve as the merchant of record for all PCMP transactions and will supply a payment gateway for all such transactions.

Except for chargeback fees from UPSafety's merchant bank, UPSafety will be responsible for all merchant processing costs associated with citation payments made online through the payment portal provided by UPSafety, including, without limitation, settlement fees, payment gateway fees, and interchange reimbursement fees. Chargeback fees from UPSafety's merchant bank will be passed through directly to Client with no markup.

UPSafety will remit all fees and fines to Client, less UPSafety's per transaction fees, refunded fees, merchant processing fees as applicable based on the pricing set forth in Exhibit B: Agreement to Purchase.

V. Fees

Client agrees to the fee schedule outlined within the attached Agreement to Purchase. Invoices will be submitted on a monthly basis, payable within thirty (30) days upon receipt.

Fees may only increase within the term due to an evidenced increase in UPSafety's direct costs in providing the specified equipment and services. Increases in scope must be evidenced by a signed acknowledgement, incorporated as an amendment to this document herein.

VI. Payment

Payment for Software Licensing, Data Plans and CiteGuardPlus™ Warranties are invoiced one (1) year in advance. Payment for purchased Hardware and CiteGuard™ warranties are due prior to installation. If handheld and other upfront costs have been amortized over a three-year term, the lump sum payment outlined in the attached Agreement to Purchase will be invoiced one year in advance.

Payments for any Owner Lookups, Data Entry, Automated Notices and Call Center Support, as applicable, are invoiced monthly on an as-used basis conformant to the Agreement to Purchase or other Appendices.

UPsafety shall keep accurate records of all services performed under this agreement and shall submit such information to the Client with each invoice. Any payment for goods or services provided under this agreement shall be made to UPsafety not more than thirty (30) days after receipt of an invoice and acceptance of the goods or services by the Client.

VII. Signatures

This Software License and Service Agreement ("Agreement") is entered into, as of the Effective Date, between United Public Safety, Inc. and the Client named below. This Agreement includes and incorporates the terms and conditions found in this document and the Standard Terms and Conditions found in Exhibit A, and the terms and conditions found in Exhibits B through C, which are attached hereto and incorporated herein by reference. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

SIGNATURE PAGE TO FOLLOW

Agreed and accepted:

United Public Safety, Inc.

City of Ames, IA

By

By

Name

Name

Title

Title

Date

Date

Exhibit A: Terms and Conditions

SaaS Terms and Conditions

These United Public Safety Terms and Conditions are related to and deemed incorporated into the CONTRACT aforementioned between United Public Safety, Inc., a Pennsylvania corporation having a principal place of business in 321 Morris Road, Fort Washington, Pennsylvania ("UPsafety"), and the Client (the "Client"). Client's execution of a CONTRACT referencing these Terms and Conditions shall be deemed Client's agreement to these Terms and Conditions. In the event of any conflict between the terms of the CONTRACT and these Terms and Conditions, the CONTRACT shall control with respect to such conflicting terms.

1. Definitions

For purposes of these Terms and Conditions, the terms below shall have the meanings defined below. Additional terms are defined in the preamble above and throughout these Terms and Conditions.

- 1.1. "Client Content" means any data, databases, information, trademarks, service marks, logos, files, images, text, files, records or other content that may be provided by or on behalf of Client or its authorized users for use in conjunction with the Software or Services.
- 1.2. "SaaS Term" means the period during which the Services and access to the Software will be provided by UPsafety to Client, including the Initial Term and any Renewal Terms of Contract.
- 1.3. "Services" means the hosting, maintenance, support and other services provided by UPsafety pursuant to these Terms and Conditions.
- 1.4. "Software" means the software specified in the CONTRACT, with "Management Platform" referring to the internet accessible management portal, and "Mobile" referring to the Android based data collection software.
- 1.5. "UPsafety Content" means any information, documentation or other materials provided to Client by UPsafety relating to the Software, including, without limitation, the User Documentation.
- 1.6. "User Documentation" means the UPsafety user documentation relating to the Software.
- 1.7. "CONTRACT" means the agreement accepting the costs and terms of the products and services sold to Client by UPsafety.
- 1.8. "Web Sites" means the web sites of UPsafety, including the web sites that provide access to the Software.

2. Web-Based License

UPsafety grants to Client, and Client accepts, a nontransferable, nonexclusive license and right to access the Management Software via the Internet, and to the Mobile Software through Android devices on which UPsafety has installed their software at the client's behest. Client agrees to the use of this Software and the User Documentation only as authorized in these Terms and Conditions, for its own internal purpose and operations, during the SaaS Term. Client acknowledges that its access to and use of the back end management Software will be web-based only. This Software will not be provided to Client in CD-ROM or DVD form (or any other form of media) and will not be installed on any servers or other computer equipment owned or otherwise controlled by Client. Instead, the Management Software will be hosted by UPsafety (as described in Section 3) and accessed and used by Client through the use of the Internet and Client's computers, while Mobile Software will be installed on Client Android devices exclusively by UPsafety.

3. Accessibility

UPsafety will provide Client access to the latest supported version of the Management Platform Software via the Internet, from the Microsoft Azure hosting facility leased by UPsafety on a 24x7 basis, except for scheduled and emergency maintenance as set forth in Section 9, Mobile Software, which may be installed on Client's android devices, will also be accessible 24x7, but may lack connectivity to the Management Platform during maintenance periods, or in the absence of wireless connectivity.

4. Limitations

The maximum number of Client's employees, Contractors, volunteers, and other agents that are simultaneously accessing or using the Software at any given time shall not exceed the number of users specified in the CONTRACT. Client's use of the Software may not exceed the scope of the use provisions above without the express written agreement of UPsafety.

5. Permitted Users

Consistent with and subject to UPsafety's database permissions and limitations, users shall be permitted access to the UPsafety CityCite® products for the following uses (but only such uses) as described below:
By users as permitted and authorized by Client within the terms and features of the CONTRACT:

- (i) Issuance & Management of Citations, Tickets & Permits
- (ii) Customization & Management of Settings, Rules, Reporting and User Permissions
- (iii) Customization & Management of Public Citation Management Portal

The permitted uses described herein shall only be permitted during the Saas Term. Client agrees that upon expiration or termination of the Saas Term, all rights granted to Client shall immediately terminate and revert to UPsafety, and Client shall destroy the UPsafety Content and any and all copies thereof, in any form, and shall erase from all computer, electronic, or other storage device or otherwise destroy all images and copies of the UPsafety Content, and shall provide certification as to the same.

6. Hyperlinks

UPsafety's web sites may contain hyperlinks to other web sites which are not maintained by, or related to, UPsafety. Hyperlinks to such web sites are provided as a service to users and are not sponsored by or affiliated with the Web Site(s) or UPsafety. UPsafety does not continuously monitor or review any or all of such web sites and is not responsible for the content of those web sites. Hyperlinks are to be accessed at the user's own risk, and UPsafety makes no representations or warranties about the content, completeness or accuracy of these hyperlinks or the web sites hyperlinked to the Web Sites. UPsafety provides hyperlinks as a convenience, and the inclusion of any hyperlinks to a third-party web site does not necessarily imply endorsement by UPsafety of that web site or any association with its operators. UPsafety has no liability for any damage or loss that Client or its users may suffer as a result of the use of any third-party web sites.

7. Additional Storage Fees

UPsafety shall provide a default maximum storage space of 250 GB, which includes the backup and retention thereof, to the Client within the hosted environment. Any additional data usage beyond the initial 250 GB will be billed in accordance with the real increased cost levied by Microsoft, as specified in the CONTRACT.

8. Maintenance Window

UPsafety and/or its hosting or telecommunications vendor(s) may perform system maintenance within the following "Maintenance Windows" during which time access to the Software, Services and Client Data may be temporarily unavailable:

- (i) "Security Maintenance/Upgrade Window" – Nightly between 12 a.m. and 6 a.m. U.S. Eastern Time for application of periodically distributed security/software updates as provided by operating system, network, and firewall vendors, or UPsafety.
- (ii) "Emergency Maintenance Window" – In the event there is an unforeseen issue that causes the Software or the Services to be unavailable or the performance of the Software or the Services to be materially inhibited, in which case the Software or Services may be temporarily unavailable while UPsafety and its vendors work to resolve the issue.

Client understands and agrees that there may be instances when UPsafety needs to interrupt access to the Software without notice in order to protect the integrity of the Software or Services due to security issues, virus attacks, spam issues or other unforeseen circumstances.

9. Availability

9.1 Commitment Level. UPsafety will provide "availability" to the Software during the SaaS Term, calculated and defined within CONTRACT. Any Maintenance Window shall not be included as downtime for purposes of determining availability.

9.2 System Monitoring. UPsafety will monitor performance indicators on the systems and network infrastructure (its own and that of third party suppliers) in order to gauge the overall performance of its hosting services, and will take reasonable steps to address systems and network infrastructure as required to maintain application performance. UPsafety will use an internal system to measure whether the Software is available, and Client agrees that this system will be the sole basis for resolution of any dispute that may arise between Client and UPsafety regarding these Terms and Conditions. UPsafety will not systematically monitor Client Content, but UPsafety reserves the right to review Client Content from time to time in its discretion. UPsafety reserves the right to (a) disable access to or delete any Client Content which it determines in its sole discretion (such discretion to be exercised in good faith) to be illegal, obscene, threatening, defamatory, fraudulent, infringing, harassing, or otherwise offensive, and (b) disable access to or delete any other Client Content under justified exigent circumstances, as such circumstances are determined in good faith by UPsafety. UPsafety also reserves the right to monitor, restrict, and terminate Client's ability to build, run and obtain reports and batch jobs/processes through the use of the Software or Services if Client is using excessive computing resources which are impacting the performance of the Software and Services for other subscribers. UPsafety agrees to notify Client in cases where it restricts or terminates such reports or jobs/processes and use good faith efforts to determine an appropriate alternative or work-around solution.

10. Upgrades

UPsafety will install upgrades/releases of the Software which are generally made available to its other subscribers, including patches and/or fixes, as they are made available, at no charge during the SaaS Term.

11. Client Responsibilities

Client will retain responsibility for administering security within the UPsafety applications (e.g., the granting of rights to a user for a specific form in the application), including maintaining the secrecy of all usernames and passwords. Client shall be responsible for all actions taken using the usernames and passwords provided to Client. Client is responsible for maintaining its user desktops and other devices and providing users network

and internet access to the Software. Client is also responsible for ensuring that its users comply with these Terms and Conditions with respect to use of the Software and Services. Client shall provide secure connectivity to the Internet for its location(s) for purposes of providing adequate access to Software hosted at the Hosting Site. UPSafety shall not be responsible for the reliability or continued availability of the communications lines, or the corresponding security configurations, used by Client in accessing the Software via the Internet. Client shall provide adequate industry "best practice" standards to ensure reasonable security for integration between applications at the Client site and Software hosted by UPSafety. Client shall provide accurate input information in the manner reasonably prescribed by UPSafety in connection with the Software and Services provided under these Terms and Conditions. Client shall advise UPSafety of any changes to Client's operations, banking relationships, Primary Contact, or other information that would require a change in the support, operation, or configuration of the hosted Software. Client shall configure necessary user accounts via the administrator account provided by UPSafety. Client shall be responsible for ensuring that any Client Content is accurate, not corrupt in any way, and does not contain any viruses.

12. Intellectual Property Rights

Client agrees that the Software, User Documentation and Services are proprietary products and services and that all right, title and interest in and to the Software, User Documentation and Services, including all associated intellectual property and other proprietary rights, are and shall at all times remain with UPSafety and its third party licensors. The Software contains trade secret and proprietary information owned by UPSafety or its third party licensors and is protected by United States copyright laws and international trade provisions and other applicable law. Client must treat the Software like any other copyrighted material and Client may not copy or distribute the Software or the User Documentation, electronically or otherwise, for any purpose. Client hereby grants to UPSafety a nonexclusive right to use all Client Content for the purposes of providing the Software and Services to Client and its authorized users pursuant to these Terms and Conditions. Client represents and warrants that the Client Content does not infringe or violate the intellectual property, proprietary or personal rights of any third party and Client has the right to grant UPSafety the right to use the Client Content as set forth herein. The Parties understand and agree that the Client is subject to Iowa's Open Records laws and thus may disclose records in its possession as required by applicable law, subpoena or court order.

13. Other Restrictions

Use of the Software and Services is restricted to use by the specific licensing entity only, and only for Client's internal business purposes. Client may not use the Software or Services for the benefit of any third parties or provide service bureau or other access or use of the Software or Services to third parties. Client may not, directly or indirectly, sublicense, assign, transfer, sell, rent, lend, lease or otherwise provide the Software, Services (or any portion thereof, including without limitation any capacity) or the User Documentation, or any portions thereof, to any third party, and any attempt to do so is null and void and shall be deemed a material breach of these Terms and Conditions. Client may not reverse engineer, disassemble, decompile or make any attempt to ascertain, derive or obtain the source code for the Software. Client shall not use the Software for any commercial purpose beyond the functionality for which the Software is intended. Client hereby agrees, represents and warrants to UPSafety that Client will not access or use the Software or the Web Sites for any purpose that is unlawful or prohibited by these Terms and Conditions. Client will not use the Software, Services or UPSafety ToCite, CityCite, CodeCite and ForCite Cloud product to take any actions that (i) infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (ii) violate any applicable law, statute, ordinance or regulation (including those regarding export control); (iii) are defamatory, trade libelous, threatening, harassing, or obscene; (iv) constitute unauthorized entry to any machine accessible via the network; (v) create or build any derivative works from any information, content, software, products or services obtained from or otherwise connected to UPSafety's Software or Web Sites, including appending such information or content to Client's internal database for distribution to multiple nonprofits as a donor database product or service; or (vi) distribute, transfer or resell the results of Client's use of the Software, Services or Web Sites. Client shall not knowingly and intentionally interfere with or disrupt network users, services or equipment with the intent to cause an excessive or disproportionate load on UPSafety's or its suppliers' infrastructure by means of (but not limited to) distribution of unsolicited bulk emails or chain letters, viruses, Trojan horses, worms, or other similar harmful or deleterious programming routines.

Client further agrees to cooperate with UPSafety in causing any unauthorized use (including but not limited to co-branding, framing or hyper-linking) to immediately cease.

14. Location, Audio, Image, and Video Services

Client acknowledges and consents to the automated and manual creation and/or collection of Location-Based, Audio, Image, and/or Video Services information in the Software and/or Device through interaction between the Devices where the Software is installed, UPSafety's servers, and third party applications and systems. UPSafety will use commercially reasonable efforts to ensure the accuracy of Location-Based, Audio, Image, and/or Video Services; however, UPSafety assumes no liability or responsibility in the event of inaccuracies in such information. While UPSafety uses commercially reasonable efforts to safeguard such information, UPSafety assumes no liability or responsibility for losses resulting from illegal or fraudulent access to Location-Based, Audio, Image, and/or Video Services related information. UPSafety also reserves the right to make such information available to auditors, police and other governmental agencies as permitted or required by law.

15. Software Modifications

Client shall not make any modifications to the Software. Any modifications that Client makes to the Software will void any warranty obligations contained in these Terms and Conditions.

16. Limitation of Liability

UPSAFETY'S MAXIMUM LIABILITY FOR ANY ACTION ARISING UNDER THESE TERMS AND CONDITIONS, REGARDLESS OF THE FORM OF ACTION AND WHETHER IN TORT, CONTRACT OR OTHER FORM OF LIABILITY, SHALL IN NO EVENT EXCEED THE FEES PAID BY CLIENT DURING THE TWO-YEAR PERIOD PRECEDING NOTICE TO UPSAFETY OF CLIENT'S LOSS. IN NO EVENT SHALL UPSAFETY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST DATA, LOST PROFITS, OPPORTUNITIES OR CONTRIBUTIONS, LOSS OF USE, GOODWILL, BUSINESS INTERRUPTION, COST OF COVER, OR OTHER PECUNIARY OR NON-PECUNIARY LOSS, HOWEVER ARISING, EVEN IF UPSAFETY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UPSAFETY SHALL HAVE NO LIABILITY OR RESPONSIBILITY IN THE EVENT OF ANY LOSS OR INTERRUPTION IN SOFTWARE ACCESS DUE TO CAUSES BEYOND ITS REASONABLE CONTROL OR FORESEEABILITY, SUCH AS LOSS, INTERRUPTION OR FAILURE OF TELECOMMUNICATIONS OR DIGITAL TRANSMISSIONS AND LINKS, INTERNET SLOWDOWN OR FAILURES. THE PARTIES AGREE TO THE ALLOCATION OF RISK SET FORTH HEREIN. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

17. Independent Contractor

UPSAFETY IS AN INDEPENDENT CONTRACTOR AND NOT AN AGENT OR EMPLOYEE OF CLIENT. NO AGENCY, PARTNERSHIP, FRANCHISE, JOINT VENTURE, OR EMPLOYMENT RELATIONSHIP EXISTS BETWEEN UPSAFETY AND CLIENT. UPSAFETY'S EMPLOYEES AND AGENTS WILL NOT BE EMPLOYEES OR AGENTS OF CLIENT. UPSAFETY SHALL BE FULLY AND SOLELY RESPONSIBLE FOR THE SUPERVISION, CONTROL, PERFORMANCE, COMPENSATION, BENEFITS (INCLUDING, WITHOUT LIMITATION, ALL FORMS OF INSURANCE) WITHHOLDINGS, HEALTH AND SAFETY OF ALL OF ITS EMPLOYEES AND AGENTS. CLIENT WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY WITHHOLDING TAXES OR CONTRIBUTIONS TO STATE WORKER'S COMPENSATION, UNEMPLOYMENT OR OTHER FUNDS OR PROGRAMS.

18. Notices

All notices, consents and communications required hereunder shall be given in writing and delivered by electronic mail or mail, shall be deemed to have been given: (i) the next business day after sending by a nationally recognized overnight carrier with written confirmation of receipt (Saturdays, Sundays and legal holidays excluded), (ii) five (5) business days after deposit in the mail when sent by regular U.S. mail, or (iii) if sent by electronic mail, when the recipient acknowledges having received the electronic mail. Notices shall be sent to the other party at the addresses set forth below. Either party may change its address by giving notice in writing thereof to the other party.

United Public Safety, Inc.
321 Morris Road
Fort Washington, PA, 19034

EMAIL: djyoung@upsafety.net

19. Compliance with Applicable Law

ALL WORK PERFORMED BY UPSAFETY SHALL BE IN CONFORMANCE WITH PERTINENT OSHA, LOCAL, STATE AND FEDERAL GOVERNMENT LAWS, RULES AND REGULATIONS. UPSAFETY FURTHER COVENANTS AND AGREES THAT ALL WORK PERFORMED AND FURNISHED HEREUNDER SHALL BE IN ACCORDANCE WITH APPLICABLE PROFESSIONAL STANDARDS.

The Parties agree that this Agreement and any legal actions concerning its validity, interpretation and/or performance shall be governed by the laws of the State of Iowa without regard to any conflict of laws provisions, which may apply in other jurisdictions. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of the services shall be brought exclusively in the appropriate state and federal courts in and for Story County, Iowa.

20. Warranties

Mutual Warranties. Each party warrants that (i) it has the right and power to enter into these Terms and Conditions, and (ii) it will comply with all applicable laws and regulations pertaining to these Terms and Conditions.

UPsafety Limited Warranty. UPsafety warrants that the Services will be performed in a professional and workmanlike manner in accordance with recognized industry standards and other specifications as outlined in the CONTRACT.

Exclusive Remedies. Beyond provisions for liquidated damages in the CONTRACT, if, during the Warranty Period the Software fails to comply with the Software Warranty set forth above, UPsafety's entire liability and Client's exclusive remedy beyond these damages will be either to a) repair or replacement of the Software, or b) if in UPsafety's opinion such repair or replacement is not possible, termination of the SaaS Term and a refund of the Subscription Fees paid for the Software. This limited warranty is void if failure of the Software has resulted from accident, abuse, misuse or negligence of any kind in the use, handling or operation of the Software, including any use not consistent with the User Documentation or UPsafety training. UPsafety's entire liability and Client's exclusive remedy for any breach of warranty with respect to the Services as described above shall be UPsafety re-performing the Services performed.

Disclaimers. Any written or oral information or representations provided by UPsafety agents, employees, resellers, consultants or service clients with respect to the use or operation of the Software will in no way increase the scope of UPsafety's warranty. UPsafety and its suppliers exercise no control whatsoever over the content of the information passing through their systems. Client and users must exercise their own due

diligence before distributing and/or relying on information available on the Internet, and must determine that they have all necessary rights to copy, publish, or otherwise distribute such information under copyright and other applicable laws. Neither UPSafety nor its suppliers will be liable for any consequences of providing services, including those suffered as a result of delivering or accessing information or content, such as accessing information with offensive, inaccurate or inappropriate content, the possibility of Contracting computer viruses, or unauthorized access to or alteration, theft, or destruction of any data, files, programs, procedures, or information through accident, fraudulent means or devices, or any other method. UPSAFETY DOES NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS OBTAINED BY CLIENT IN USING THE SOFTWARE OR THE SERVICES, OR THAT THE SOFTWARE OR THE SERVICES WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. EXCEPT FOR THE WARRANTIES SET FORTH ABOVE AND IN THE CONTRACT, UPSAFETY EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY (BY ANY TERRITORY OR JURISDICTION) TO THE EXTENT PERMITTED BY LAW. FURTHER, UPSAFETY EXPRESSLY EXCLUDES ANY WARRANTY OF NONINFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY TO THE EXTENT PERMITTED BY LAW.

21. Confidential Information

Definition. The term "Confidential Information" shall mean: (i) any and all information which is disclosed by either party ("Owner") to the other ("Recipient") verbally, electronically, visually, or in a written or other tangible form which is either identified or should be reasonably understood to be confidential or proprietary; and (ii) the terms, including, without limitation, the pricing, of the Software and Services and any proposals or other documents that preceded these Terms and Conditions. Confidential Information shall include, but not be limited to, personal information (individual name, address, contact information, and individual payment amounts), organization and credit card information, trade secrets, computer programs, software, documentation, formulas, data, inventions, techniques, marketing plans, strategies, forecasts, client lists, employee information, financial information, confidential information concerning any of Owner's past, current, or possible future programs, and confidential information concerning Owner's business or organization, as Owner has conducted it or as Owner may conduct it in the future. In addition, Confidential Information shall include information concerning any of Owner's past, current, or possible future products or methods, including information about Owner's research, development, engineering, purchasing, manufacturing, accounting, marketing, selling, leasing, and/or software (including third party software).

Treatment of Confidential Information. Owner's Confidential Information shall be treated as strictly confidential by Recipient and shall not be used by Recipient other than in connection with its performance under these Terms and Conditions or disclosed by Recipient to any third party except to those third parties operating under non-disclosure provisions no less restrictive than in this Section and who have a justified business "need to know". Client shall protect the deliverables resulting from Services with the same degree of care. These Terms and Conditions impose no obligation upon the parties with respect to Confidential Information which either party can establish by legally sufficient evidence: (a) was in the possession of, or was rightfully known by the Recipient without an obligation to maintain its confidentiality prior to receipt from Owner; (b) is or becomes generally known to the public without violation of these Terms and Conditions; (c) is obtained by Recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality; (d) is independently developed by Recipient without the participation of individuals who have had access to the Confidential Information; or (e) is required to be disclosed by court order or applicable law, provided notice is promptly given to the Owner and provided further that diligent efforts are undertaken to limit disclosure. UPSafety does not guarantee that Confidential Information provided to it in order for UPSafety to perform its support or professional services will be stored indefinitely and UPSafety reserves the right to purge such information from its database after one (1) year. The preceding statement does not affect information stored in the Software.

Client Database. On the Commencement Date, UPSafety will notify Client's Primary Contact prior to accessing the Client's database file for the purpose of providing trouble-shooting, problem resolution, support, and professional services and will proceed once confirmation is received from the Client via email or phone

communications. Client authorizes UPSafety to edit data without notification for all work performed prior to the commencement of the Initial Term as part of the implementation project.

Rights and Duties. The Recipient shall not obtain, by virtue of these Terms and Conditions, any rights, title, or interest in any Confidential Information of the Owner. Within fifteen (15) days after termination of the SaaS Term, each party shall certify in writing to the other that all copies of Confidential Information in any form, including partial copies, have been destroyed, returned, or used solely as the Owner so directs.

Survival. The terms of this Section shall survive termination of the SaaS Term. If the parties have executed a separate agreement that contains confidentiality terms prior to or contemporaneously with entering into the CONTRACT (and thereby, these Terms and Conditions), those separate confidentiality terms shall remain in full force to the extent they do not conflict with these Terms and Conditions.

22. Indemnity

By UPSafety. UPSafety shall indemnify and defend Client against any third party claims that the Software or other Work Product (defined below) made available to Client by UPSafety infringe any United States, Canadian or Mexican patent or copyright during the SaaS Term, provided that UPSafety is given prompt notice of such claim and is given information, reasonable assistance, and the sole authority to defend or settle said claim. In the defense or settlement of any claim relating to infringing Software or other Work Product, UPSafety shall, in its reasonable judgment and at its option and expense: (i) obtain for Client the right to continue using the Software or other Work Product; (ii) replace or modify the Software or other Work Product so that it becomes non-infringing while giving substantially equivalent functionality; or (iii) if UPSafety determines the remedies in (i) or (ii) are not commercially reasonable, as its sole obligation, terminate the SaaS Term. UPSafety shall have no liability to indemnify and defend Client to the extent (i) the alleged infringement is based on infringing information, data, software, applications, services, or programs created or furnished by or on behalf of Client; (ii) the alleged infringement is the result of a modification made by anyone other than UPSafety; or (iii) Client uses the Software or other Work Product other than in accordance with these Terms and Conditions or any documentation delivered by UPSafety. This Section states UPSafety's entire liability and Client's sole and exclusive remedy for claims relating to infringement.

By Client. Client shall indemnify and defend UPSafety against any claims (i) resulting from Client's and its users' use of the Software, Work Product or Services; (ii) that any Client Content (including without limitation content provided by Client for inclusion on a donation site) infringes or violates any rights of third parties, including without limitation, rights of publicity, rights of privacy, intellectual property, trade secrets or licenses; or (iii) arising from or relating to Client's or its users' failure to comply with these Terms and Conditions.

Survival. The terms of this Section shall survive termination of the SaaS Term.

23. Right to Work Product

Any invention, discovery, creation, expression or other result of UPSafety's Services, such as findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, programs, tools, applications, interfaces, enhancements, software, and other technical information (collectively "Work Product"), created by UPSafety in the course of performing the Services hereunder are the property of UPSafety and are licensed to Client, without further license fees, pursuant to the license in these Terms and Conditions, provided, however, Work Product does not include, and Client shall retain title to (i) Confidential Information of Client, and (ii) all Client Content. Client shall have no right to sublicense, transfer, assign, convey or permit any third party to use or copy any Work Product.

24. Force Majeure

Except for Client's obligation to pay UPSafety, neither party shall be liable for any failure to perform its obligations under these Terms and Conditions if prevented from doing so by a cause or causes beyond its control, including without limitation, acts of God or public enemy, failure of suppliers to perform, fire, floods, storms, epidemic or quarantine restrictions, earthquakes, riots or civil commotion, strikes, war, and restraints of government, freight or other embargoes, weather conditions or any failures by UPSafety's subcontractors or suppliers.

25. Assignment

Neither these Terms and Conditions nor the CONTRACT shall be assigned by Client without the prior written consent of UPSafety. Any attempted assignment in violation of this provision shall be null and void. Subject to the foregoing, these Terms and Conditions are binding upon, inure to the benefit of, and are enforceable by the parties hereto and their respective successors and assigns.

26. Miscellaneous

Except as otherwise specifically stated herein, remedies shall be cumulative and there shall be no obligation to exercise a particular remedy. If any provision of these Terms and Conditions are held to be unenforceable, the other provisions shall nevertheless remain in full force and effect. The failure by either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach of these Terms and Conditions will not be deemed a waiver by that party as to the subsequent enforcement of rights or subsequent actions in the event of future breaches. These Terms and Conditions and the CONTRACT together set forth the entire agreement between the parties with respect to the subject matter hereof and all other agreements, representations, communications and understandings, both oral and written, are superseded hereby.