

**WAYNE COUNTY REGISTER OF DEEDS  
COMMERCIAL USER AGREEMENT**

**THIS COMMERCIAL USER AGREEMENT**, (“Agreement”) is between the Charter County of Wayne, Michigan, through the OFFICE OF THE WAYNE COUNTY REGISTER OF DEEDS (“Register”) and \_\_\_\_\_ (“Commercial User”). Collectively, the Register and the Commercial User are referred to as the “Parties”

**I. MUTUAL UNDERSTANDING:**

- 1.1 The Register records, maintains and indexes certain records for the County of Wayne, Michigan, a portion which is electronically stored and imaged. In furtherance of this duty the Register has developed a website in which the public can access such records. (“Website”)
- 1.2 The Commercial User desires to access, retrieve, examine and copy records maintained by the Register utilizing the Register’s Website and to obtain service from on-site computer provided by the Register and allowed under this Agreement.
- 1.3 The Parties desire to create a relationship where the Commercial User will be able to access, retrieve, examine and copy records maintained by the Register for an agreed upon fee.
- 1.4 The Parties agree that electronic retrieval and access to the stored images shall be referred to as the “Services.”

**II. PAYMENT FOR SERVICES**

- 2.1 The Commercial User agrees that upon payment of a non-refundable Five Hundred Dollars (\$500) Access Application Fee, and payment of the monthly user fees established on the Website, the Register shall provide the Commercial User with two User Identification codes (“User IDs”) to its Website of computerized and imaged records in order to access, examine and copy said records.
- 2.2 The Commercial User will access the records on the Register’s Website and by using computer terminals provided by the Register of Deeds Office, at 400 Monroe St., 7<sup>th</sup> Floor, Detroit, Michigan.
- 2.3 The Commercial User agrees to the fees indicated on the Register’s Website, and agrees and understands that such fees are subject to change. The Parties acknowledge that fees are determined on the Commercial User’s purchase of timed computer access to the Register’s records, which is obtained through its assigned user identification number.
- 2.4 The Commercial User shall pay such fees by acceptance of such fees on the Register’s Website. The Register shall bill the Commercial User, on a monthly basis, for the total amount of time purchased and for any pages printed. The Commercial User agrees and understands that Service can only be purchased in timed increments at the prices indicated on the Website which is associated with the Commercial User’s User ID.
- 2.5 The Commercial User will have access to the Register’s records through computer terminals located in a “Commercial User’s Room” in the Register’s Office at 400 Monroe St., 7<sup>th</sup> Floor, Detroit, Michigan. The office is open for business Monday through Friday, from 8:00 AM until 4:15 PM, excluding holidays. However, the Commercial User may only use the computer terminals provided by the Register until 4:00 PM.

- 2.6 In addition to the timed use access fee, the Commercial User will be billed a print fee of \$1.00 per page based upon the number of pages printed. If access is provided at the computer terminals located at the Registers of Deeds Office, the Register will provide the printer and paper.
- 2.7 The Commercial User may view microfiche in the Register's Office and obtain paper copies of documents from microfilm at the posted public rate. All such charges will be included in the monthly bill to the Commercial User.
- 2.8 The Parties have agreed that the Commercial User may, at their own option, create an Escrow Account with the Register of Deeds. If the Commercial User opts to create this Escrow Account, the Parties Agree that the Terms of such an arrangement shall be as follows:
- A. From time to time the Commercial User may deposit funds with Register of Deeds. Upon deposit, the Register of Deeds shall provide the Commercial User with a balance sheet and receipt acknowledging the deposit and available funds upon which the Commercial User may request Services.
- B. Both Parties agree that this Escrow Liability Agreement is created for the benefit of the Commercial User. In furtherance of this understanding the Register of Deeds may:
1. Rely upon any order, notice, other writing delivered to it by the Commercial user without being required to determine its authenticity or correctness, or the propriety or validity of service;
  2. Act in reliance upon any instrument or signature that it believes is genuine (but subject to the provisions of this Escrow Agreement);
  3. Conclusively presume that any person signing this contract on behalf of an entity has full power and authority to instruct us on your behalf unless you give us written notice to the contrary.
- C. The Term of this Escrow Account shall coincide with the Term listed in Section 4.1 of this Agreement. Termination shall require the Register of Deeds to return any Escrow Funds to the Commercial User within forty-five (45) days upon receipt of such notice. Upon termination, either by its term or upon written notice the Register of deeds shall return any balance within the escrow account within forty-five (45) days, unless the parties enter into a new Commercial User Agreement within 30 days of the agreement expiring and the Commercial User chooses to keep the escrow funds in the account.

### **III. TERMS AND CONDITION**

- 3.1 The Parties acknowledge that the Terms and Conditions regarding the Commercial User's access and retrieval of public records of the Register of Deeds Office is bound by those terms identified in Exhibit A.
- 3.2 The Parties further acknowledge that the Commercial User must accept these Terms and Conditions by electronic acknowledgement of such conditions upon entering the Register's website.

- 3.3 In addition to the Terms and Conditions listed in Exhibit A and on the Register's Website, the Commercial User shall abide by any and all rules and regulations established by the Register regarding the use of the premises or facilities of the Register in connection with the utilization of the Register's records. Any deviation from said rules and regulations shall be grounds for terminating access to the assigned office area, access to the LAN, and the use of any other facility provided by the Register under the terms of this Agreement.
- 3.4 The Register shall not guarantee, warrant or promise that (a) the Commercial User will be able to access or use its electronically stored records or website at any given time, (b) its computer facilities or Website will be available or operational during all business hours. The Register is not responsible for training, supervising or instructing the commercial or its agents as to the use of its records or access to its computer facilities.
- 3.5 The Commercial User shall not install, use or permit the installation or use of any hardware, software or other equipment in connection with the Register's computer equipment. The Register shall have the right to supervise and inspect the use of its computer equipment while being used by the Commercial User to assure conformance to its rules and regulations. Violation of this provision is grounds for immediate termination of this agreement and ejection of the Commercial User, or its employees' agents or representations from the Register's Office.
- 3.6 It is understood and agreed that the use of the Register's facilities at 400 Monroe St., 7<sup>th</sup> Floor, Detroit, Michigan is contingent upon the continuation of the Lease Agreement between 400 Monroe Associates and the County of Wayne. In the event that the Register's use and occupancy of its offices are terminated or restricted, the Register shall have the right to cancel this agreement and refund any advanced access fee paid by the Commercial User.

#### IV. TERM OF AGREEMENT

- 4.1 The term of this Agreement shall begin with execution of the agreement, and shall end on **December 31, 2016**. This Agreement may be extended by the Register for successive one (1) year periods upon request, in writing, from the Commercial User to the Register. The request for extension must be delivered no later than sixty (60) days prior to the expiration of the current Term, and may be amended or modified in writing, in a document signed by both parties hereto, by indicating the paragraphs intended to be amended or modified.

#### V. MISCELLANEOUS

- 5.1 The parties hereto each represent that they have full authority to enter this Agreement and to bind themselves to the terms and conditions set forth herein.
- 5.2 It is understood that the Commercial User is not an agent or employee of the Register or the County of Wayne and the Commercial User shall indemnify and hold harmless the Register for any and all claims and causes of action whatsoever arising out of this Agreement which may have been caused by the acts or negligence of the Commercial User, its agents or employees in the exercise or performance of its rights, duties or obligations under this Agreement.
- 5.3 In the event that one of the foregoing or provisions paragraphs is declared null and void, it shall not affect the validity or enforceability of the remaining portions of this Agreement.
- 5.4 This Agreement may be cancelled by either party giving (30) days written notice of intent to cancel, and payment of any amount owed up to the date of cancellation.

5.5 All notices, bills or other communications regarding this agreement shall be sent to the Commercial User at the following address:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ATTENTION: \_\_\_\_\_

PHONE: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

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**COMPLIANCE WITH CONSENT AGREEMENT**

- 6.1 The parties acknowledge that this Contract is subject to Public Act 436 of 2012, MCL 141.1541 to 141.1575 ("Act") and the Consent Agreement between the County and the State Treasurer N.A. Khouri effective August 21, 2015 ("Consent Agreement"). A copy of the Consent Agreement is available at [www.waynecounty.com/mb/consent-agreement.htm](http://www.waynecounty.com/mb/consent-agreement.htm).
- 6.2 Upon written request of the County, the Comercial UserComercial User shall promptly and fully provide all necessary and requested assistance and information under the Consent Agreement and under the Act.
- 6.3 The Comercial UserComercial User shall promptly provide notice to the County Executive if the Comercial User receives a request for assistance by an officer, employee, agency or contractor of the State Department of Treasury.
- 6.4 The Comercial User shall promptly provide notice to the County Executive of knowledge or information of any action or omission that could be considered, or that could lead to, a failure to comply with or breach of the Consent Agreement or of a violation of state or federal law with respect to a matter relating to the Consent Agreement, including the Open Meetings Act, 1976 PA 267, the Uniform Budget and Accounting Act, 1968 PA 2, or the Emergency Municipal Loan Act, 1980 PA 243, by the County, the County Commission, the County Executive, or another officer of the County.
- 6.5 The Comercial User shall immediately provide notice to the County Executive of any possible violations of the Consent Agreement by sending an email to [consentagreement@waynecounty.com](mailto:consentagreement@waynecounty.com) or by completing the submission form found at [www.waynecounty.com/mb/consent-agreement.htm](http://www.waynecounty.com/mb/consent-agreement.htm).
- 6.6 If this Contract is considered "Debt" under the terms of the Consent Agreement, it may not be executed or submitted to the County Executive or County Commission for approval until it has been submitted to the County Chief Financial Officer for approval and verification that the required State Treasurer's approval has been received.

OFFICE OF THE WAYNE COUNTY  
REGISTER OF DEEDS

DATE:

\_\_\_\_\_

By: \_\_\_\_\_  
BERNARD J. YOUNGBLOOD

COMMERCIAL USER

DATE:

\_\_\_\_\_

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

Its: \_\_\_\_\_

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## Exhibit A

### WAYNE COUNTY REGISTER OF DEEDS

#### PUBLIC WEB SEARCH, ON DEMAND AND COMMERCIAL

#### USE AND SERVICES AGREEMENT

1. Access to and use of the Wayne County Register of Deeds Services (hereinafter "Services") provided by the Charter County of Wayne, Michigan is subject to the terms and conditions of this User Agreement and all applicable laws and regulations. **This includes the laws and regulations governing copyright, trademark and other intellectual property as it may pertain to the property licensed to the County by third parties.** For the purposes of this User Agreement, the Register of Deeds of the County of Wayne shall be referred to as the "County", and you, the User, will be referred to as "You" (including the possessive "Your"), and the "User".
2. BY selecting the accept button and accessing the services," YOU ACCEPT, WITHOUT LIMITATION OR QUALIFICATION, ALL OF THE TERMS AND CONDITIONS IN THIS USER AGREEMENT. You agree that your acceptance obligates you to abide by the Terms of this Agreement and where applicable, to pay for access to certain Services. This includes an obligation to pay the charges incurred by third parties, whether they are your agents or otherwise, who access this Service through Your account. The County reserves the right to change these terms and conditions and the prices charged for Services at any time. Changes to the terms of this Agreement and charges for Services will only apply to future uses of the Services (i.e. a change to the charge for an individual query will apply to queries occurring after the change, while a change to the charge for subscription access will apply to the next billing cycle following the change.) The current version of this Agreement can be viewed anytime by clicking on the User Acceptance Agreement link on the My Profile page.
3. Your continued use of this Site and these Services after the posting of updates to this Agreement, or the charges for Services will constitute your agreement to those terms or charges, as modified. The County additionally reserves the right to modify or discontinue, at any time, any Services, without notice or liability.
4. LIABILITY FOR CHARGES INCURRED FOR ACCESS TO SERVICES. By selecting the accept button on the Login page, the "Accept all terms of agreement" box and accessing the Services, you agree to pay the charges established for these Services. The current charges applicable to the use of these Services are detailed in your profile, and can be seen by clicking on your profile menu. These charges are based on your use as a "Commercial User", or an "On Demand User." The charges applicable to access these Services for On Demand Users are located on the Login page. The charges applicable to Commercial User charges are based on the current Commercial User's access number and are identified upon entering the Services site.
5. OWNERSHIP AND PROPRIETARY RIGHTS. All of the products and Services, including but not limited to text, data, photographs, maps, images, graphics, audio and video clips, trademarks, logos and service marks (collectively, the "Content"), are owned by the County or licensed to the County by third-parties who own the Content. **Although the County does not claim a copyright, trademark or other intellectual property interest in the Content, the third parties reserve their copyright, trademark or other intellectual property interests in their property that is part of the Content.** In connection with those products and Services, you agree to the following: text, data, photographs, maps, images, graphics, audio and video clips, trademarks, logos and service marks (collectively, the "Content"), are owned by the County or licensed to the County by third-parties who own the Content **and the third party licensors' property interests are protected by copyright, trademark and other intellectual property laws.** In connection with those products and Services, you agree to the following:
  - A. When accessing the Content, you may print a copy. If a printout and/or download are made, applicable third parties shall retain all rights in this material, and such a printout and/or download shall retain any copyright or other notices contained in that Content.

- B. You will abide by restrictions set forth on the Site with respect to any of the Content.
- C. You will not in any way violate the intellectual property laws protecting the third party licensors' property interests in the Content.
- D. You will not reuse, republish or otherwise distribute the Content or any modified or altered versions of it, whether over the Internet or otherwise, and whether or not for payment, without the express written permission of the copyright holder.
- E. You will cooperate promptly and completely with any reasonable request by the County related to an investigation of infringement of copyright or other proprietary right of the third party licensor.
- F. YOU AGREE THAT THE MATERIAL YOU ARE ACCESSING CONTAINS THE TRADE SECRETS AND INTELLECTUAL PROPERTY OF THE **THIRD PARTY LICENSORS** AND YOU WILL CAUSE IRREPERABLE HARM TO THE **THIRD PARTY LICENSORS** IF THIS MATERIAL IS USED IN VIOLATION OF THIS AGREEMENT.

6. INDEMNIFICATION:

You hereby agree to indemnify and hold harmless the County, and its respective officials, agencies, officers, subsidiaries, employees, licensors and agents, from and against any and all liability, loss, claims, damages, costs and/or actions (including attorneys' fees) based upon or arising out of any breach by you or any third party of the obligations under this Agreement. Notwithstanding your indemnification obligation, the County reserves the right to defend any such claim and you agree to provide us with such reasonable cooperation and information as we may request.

7. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY:

While the County uses reasonable efforts to provide accurate and up to date information, much of the information provided through the Services is gathered and has not been independently verified by the County. The information and services and products available to you may contain errors and are subject to periods of interruption. The county will do its best to maintain the information and services it offers. YOU AGREE THAT ALL USE OF THESE SERVICES IS AT YOUR OWN RISK, AND THAT THE COUNTY WILL NOT BE HELD LIABLE FOR ANY ERRORS OR OMISSIONS CONTAINED IN THE CONTENT OF ITS SERVICES.

THE SERVICES ARE PROVIDED "AS IS", AND THE COUNTY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF ACCURACY, RELIABILITY, TITLE, MERCHANTABILITY, NON INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, CONDITION, GUARANTEE OR REPRESENTATION, WHETHER ORAL, IN WRITING OR IN ELECTRONIC FORM, INCLUDING BUT NOT LIMITED TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION CONTAINED THEREIN OR PROVIDED BY THE SERVICES. THE COUNTY DOES NOT REPRESENT OR WARRANT THAT ACCESS TO THE SERVICES WILL BE UNINTERRUPTED OR THAT THERE WILL BE NO FAILURES, ERRORS OR OMISSIONS OR LOSS OF TRANSMITTED INFORMATION.

IN NO EVENT SHALL COUNTY, OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE SERVICES OR THE SERVICES SOFTWARE, BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL AND EXEMPLARY DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF INFORMATION AVAILABLE FROM THE COUNTY SERVICES.

THE INFORMATION, DOCUMENTS AND RELATED GRAPHICS PUBLISHED ON THIS SERVER COULD INCLUDE TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS. CHANGES ARE PERIODICALLY MADE TO THE INFORMATION HEREIN. THE COUNTY MAY

MAKE IMPROVEMENTS AND/OR CHANGES IN THE SERVICES AND/OR THE CONTENT (S) DESCRIBED HEREIN AT ANY TIME.

THIS DISCLAIMER OF LIABILITY APPLIES TO ANY DAMAGES OR INJURY CAUSED BY ANY FAILURE OF PERFORMANCE ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUSES, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO ALTERATION OF OR USE OF RECORD, WHETHER FOR BREACH OF CONTACT, TORTIOUS BEHAVIOR, NEGLIGENCE OR UNDER ANY OTHER CAUSE OF ACTION.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULT FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

NO ADVICE OR INFORMATION, WHETEHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE COUNTY OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. IF YOU ARE DISSATISFIED WITH THE SERVICE, OR ANY PORTION THEREOF, YOUR EXCLUSIVE REMEDY SHALL BE TO STOP USING THE SERVICE.

8. MISCELLANEOUS:

The County has the right at any time to change or discontinue any aspect or feature of the services, including, but not limited to, content, hours of availability, and equipment needed for access or use.

You shall be responsible for obtaining and maintaining all telephone, computer hardware and the equipment needed for access to and use of the services.

You must use the services for lawful purposes only.

Any conduct by you that in the County's discretion restricts or inhibits any other person from using or enjoying the services will not be permitted.

The County offers information for you, but you must decide what to do with that information.

These terms and conditions shall be governed by and construed according to the laws of the State of Michigan, USA. The User agrees to submit to the personal jurisdiction of the courts of the County of Wayne, State of Michigan. If any portion of these terms and conditions is deemed by a court to be invalid, the remaining provisions shall remain in full force and effect. You agree that regardless of any statute or law to the contrary, and claim or cause of action arising out of or related to the use of these services, must be filed within one year after such claim or cause of action arose.

This is an offer to provide Services, and acceptance is expressly conditioned upon your acceptance of these terms and only these terms. Your acceptance of this Agreement is demonstrated by checking the box of "Accept all terms of agreement" in the join form. This Agreement, and all acknowledgement of fees associated with this Agreement, represents the entire agreement between you (the user) and the County.