

OFFICE OF REGISTER OF DEEDS, WAYNE COUNTY, MICHIGAN
COMMERCIAL USER AGREEMENT

This Commercial User Agreement (Agreement) is between the Charter County of Wayne, Michigan, through the Office of Register of Deeds (Register), and _____
_____(Commercial User). Collectively, Register and Commercial User are the Parties who agree to the following terms and conditions.

1. MUTUAL UNDERSTANDING

- 1.1 Register records, images, indexes and electronically stores certain records for the County of Wayne, Michigan. In furtherance of this duty, Register developed a website (Website) on which the public can retrieve these records.
- 1.2 Commercial User wants to (a) use Register's Website to access records and print the records, (b) look at microfiche and microfilm in Register's Office and obtain paper copies of the images, (c) record records in Register's Office and (d) pay for these services by allowing Register to debit Commercial User's escrow account.
- 1.3 The Parties want to create a relationship where, for an agreed upon fee debited from Commercial User's escrow account, Commercial User can (a) access Register's Website to view and print stored records, (b) pay required fees and real estate transfer taxes when recording documents in Register's Office and (c) pay posted fees when obtaining paper copies of microfiche and microfilm images.
- 1.4 The Parties agree that "Services" means Commercial User's (a) use of the Website to view and print stored records; (b) use of the escrow account to pay required fees and real estate transfer taxes when recording records in Register's Office and (c) use of the escrow account to pay for paper copies of microfiche and microfilm images.

2. PAYMENT FOR SERVICES

- 2.1 After Commercial User completes the following actions, Register will provide Commercial User with up to four User Identification codes (User IDs) to its Website so Commercial User can view and print the records:
 - A. Execute this Agreement (which includes the *Use and Services Agreement*).
 - B. Except for Government entities, Commercial Users must pay a non-refundable One Hundred Fifty Dollars (\$150) Access Application Fee.
 - C. Establish an escrow account that will be used to pay for Services.

- 2.2 The fees for access and printing, which are subject to change, will be debited from Commercial User's escrow account. The fees are based on Commercial User's purchase of timed Website access to Register's records and the number of pages Commercial User prints. Currently the fees posted on the website are:
- A. The timed access fee is \$6 for 15 minutes and \$21 for 60 minutes.
 - B. The print fee is \$1 per page, up to a maximum of \$5 per record.
- 2.3 Commercial User has the option to access the Website using computers in the "Commercial Suite" within Register's Office, when the office is open for business. The office is normally open Monday through Friday, from 8 AM until 4:15 PM. The address is 400 Monroe St., 7th Floor, Detroit, MI 48226. Register will provide the paper and printer.
- 2.4 Commercial User may view microfiche and microfilm in Register's Office and obtain paper copies of the images at the posted public rate. The charges can be debited from Commercial User's escrow account.
- 2.5 Commercial User may record records in Register's Office and use the escrow account to pay required fees and real estate transfer taxes.
- 2.6 The terms for the escrow account are as follows:
- A. When Commercial User provides the initial deposit to fund the escrow account, Register will provide Commercial User with a receipt acknowledging the deposit and available funds upon which the Commercial User may request Services.
 - B. Commercial User may arrange to replenish the escrow account by ACH payments, if Commercial User will make recurring escrow account payments. When sending an ACH payment, Commercial User must notify Register by sending an email to Register at RODFinance@waynecounty.com. The email must include transaction information including, Submitter's name, house account number, date wired, amount wired and reason for the wire (such as escrow payment).
 - C. Register will deduct from the escrow account balance, the amount owed for Services, including timed-access, pages printed, paper copies of microfiche and microfilm images, and required fees and real estate transfer tax when recording records.
 - D. Register will provide Commercial User with a monthly Customer Statement that shows the dates and amounts of deposits and debits for the escrow account.

- E. Register may deny Services to Commercial User if sufficient funds are not available in the escrow account.
 - F. The use of IDs assigned to Commercial User to access Services is deemed authorized by Commercial User.
 - G. Upon termination of the Commercial User Agreement, either by its term or upon written notice, Register will return the escrow account balance within sixty (60) days of termination. The account balance will not be returned if the parties enter into a new Commercial User Agreement within 30 days of the Agreement expiring.
- 2.7 Commercial User agrees and understands that Service can only be purchased in timed increments at the prices indicated in Section 2.2 and on the Website.
- 2.8 When Commercial User accesses the website to view and print copies of records, the system will automatically calculate the amount due for timed-access and pages printed. This amount is automatically debited from Commercial User's escrow account. This information will appear on the screen so Commercial User can print it, if desired.
- 2.9 When Commercial User records a document in Register's Office, or orders paper copies of microfiche or microfilm images, Commercial User may use the escrow account to pay the required fees and taxes.

3. TERMS AND CONDITIONS

- 3.1 The terms and conditions regarding Commercial User's Website access and retrieval of records on the Website are in this Agreement and in Exhibit A – *Use and Services Agreement*.
- 3.2 Additionally, Register may require Commercial User to accept these terms and conditions by electronic acknowledgement when accessing Register's website.
- 3.3 In addition to the terms and conditions listed in Exhibit A, this Agreement and on Register's Website, when using Register's facilities, Commercial User must abide by Register's rules and regulations. Any deviation from the rules and regulations will be grounds for terminating Commercial User's access to the Commercial Suite and may be the basis for terminating this Agreement.
- 3.4 Register does not guarantee, warrant or promise that (a) Commercial User will be able to access or use its electronically stored records or Website at any given time or (b) its computer facilities or Website will be available or operational during all business hours.

Register is not responsible for training, supervising or instructing Commercial User or its agents to use the Website, view and print records or access the Website using computers in the Commercial Suite.

- 3.5 Commercial User must not install, use or permit the installation or use of any hardware, software or other equipment in connection with Register's computer equipment. Register has the right to supervise and inspect the use of its computer equipment while being used by 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 Register's office.
- 3.6 Commercial User's use of Register's facilities at 400 Monroe St., 7th Floor, Detroit, Michigan is contingent upon the continuation of the Lease Agreement between 400 Monroe Associates and the County of Wayne. In the event Register's use and occupancy of its offices are terminated or restricted, Register has the right to cancel this agreement and refund escrow account funds to Commercial User.

4. TERM OF AGREEMENT

- 4.1 This Agreement is effective when fully executed by both Parties. Either party can terminate the agreement by giving 30 days written notice of intent to cancel and paying any amount owed up to the date of cancellation.

5. MISCELLANEOUS

- 5.1 The Parties represent they have full authority to enter into this Agreement and to bind themselves to the terms and conditions herein.
- 5.2 Commercial User is not an agent or employee of Register or the County of Wayne. Commercial User must indemnify and hold harmless Register for any and all claims and causes of action arising out of this Agreement which may have been caused by the acts or negligence of 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 a foregoing provision or paragraph is declared null and void, the validity or enforceability of the remaining portions of this Agreement will not be affected.
- 5.4 All notices, bills or other communications regarding this agreement must be sent to Commercial User at the following address:

Account Holder's Name: _____

Address: _____

Attention: _____

Phone: _____

Email Address: _____

Notices and communications to Register, except as required in Section 2.3 B, must be sent to:

Office of Wayne County Register of Deeds
400 Monroe St., 7th Floor
Detroit, MI 48226

Attention – James Racine
313-224-5877
jracine@waynecounty.com

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COMMERCIAL USER

By: _____
Printed or Typed Name

Signature

Its: _____

Date _____

OFFICE OF WAYNE COUNTY REGISTER OF DEEDS

By: _____
Printed or Typed Name

Signature

For: Bernard J. Youngblood, Register of Deeds

Date _____

2/6/2020 _____

Exhibit A

OFFICE OF WAYNE COUNTY REGISTER OF DEEDS

USE AND SERVICES AGREEMENT

1. Access to and use of the Wayne County Register of Deeds Services (Services) provided by the Charter County of Wayne, Michigan is subject to the terms and conditions of this Use and Services Agreement (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 Agreement, the Office of 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. YOU ACCEPT, WITHOUT LIMITATION OR QUALIFICATION, ALL OF THE TERMS AND CONDITIONS IN THIS USE AND SERVICES 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 on the Login page by clicking on the link for the Commercial Agreement and the Use and Services Agreement under Commercial Accounts
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 executing the Commercial User Agreement, in which the Use and Services Agreement is incorporated, you agree to pay the charges established for these Services. The current charges applicable to the use of these Services are stated in the Commercial User Agreement.
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. Applicable third parties retain all rights in the material you print or download. Furthermore, printout and downloads retain copyright and other notices contained in that Content.
 - B. You will abide by restrictions described 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, over the Internet or otherwise, 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 WILL THE 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 RECORDS, WHETHER FOR BREACH OF CONTRACT, 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, WHETHER 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 are 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 another 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.

The Commercial User Agreement, Exhibit A - Use and Services Agreement and all acknowledgement of fees associated with this Agreement, represents the entire agreement between Commercial User and the County.