

**SUBSCRIPTION AGREEMENT FOR ELECTRONIC  
ACCESS TO OFFICIAL RECORDS**

This Agreement is made and entered into by and between **Don Barbee Jr., Clerk of the Circuit Court and Comptroller** for **Hernando** County, Florida, hereinafter referred to as "CLERK", and \_\_\_\_\_, hereinafter referred to as "SUBSCRIBER."

**WHEREAS**, Section 28 and 119 of the Florida Statutes allows public records custodians to provide access to the records by electronic means; and

**WHEREAS**, CLERK desires to provide SUBSCRIBER access to certain public records within his/her custody and control by electronic means using the CLERK as the central contracting entity; and

**WHEREAS**, the purpose of this Agreement is to provide access through a subscription site to non-public secure electronic images of the CLERK'S Official Records, **NOW THEREFORE**,

**IN CONSIDERATION** of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, CLERK and SUBSCRIBER agree as follows:

**ARTICLE 1: DEFINITIONS**

The following general definitions shall apply for the purpose of this Agreement.

"Agreement" shall mean this agreement.

"Clerk" shall mean Clerk of the Circuit Court, Hernando County Florida.

"Official Records" shall mean those electronic images normally available for viewing in the CLERK'S office using the automated recording application (Clerk's Intranet).

"Subscriber" shall mean the individual/business executing this Agreement.

"Subscription Period" shall mean the period of time for which the SUBSCRIBER has paid in full.

"User" shall mean everyone whom Subscriber has authorized Clerk to issue a login id and password for access privileges.

**ARTICLE 2: TERM OF AGREEMENT**

This Agreement will commence on the date of execution by the CLERK, and continue until terminated as provided for herein in accordance with Article 14.

### **ARTICLE 3: SCOPE OF AGREEMENT**

CLERK and SUBSCRIBER agree that the scope of this Agreement shall be to access CLERK'S Official Records, including those which are prohibited by Florida Law from being accessed from the CLERK'S publicly available internet website and which are not otherwise completely prohibited from public view by Florida Law or Rules of Court.

### **ARTICLE 4: DAYS AND HOURS OF OPERATION**

CLERK will endeavor to provide continuous operation of the subscription site wherein SUBSCRIBER accesses records; however, subscription site access may be interrupted during such periods of remedial maintenance as may be required. CLERK will attempt to schedule routine maintenance after 5:00 p.m. and before 8:00 a.m. or during weekends or holidays.

CLERK reserves the right to reduce or limit the subscription site service levels during unusual circumstances such as, but not limited to, "brownouts", emergency production requirements mandated by law, intrusions against security regulations, and adverse operational impacts.

### **ARTICLE 5: SERVICES**

CLERK, his/her employees or agents, will provide SUBSCRIBER access to the Official Records via the subscription site.

CLERK may from time to time modify the categories, classifications, format or appearance of data provided without prior notice to SUBSCRIBER. Such changes will generally be made to conform to changes in Florida law or to improve service to SUBSCRIBER.

THE PUBLIC INFORMATION IS PROVIDED SUBJECT TO THE LAWS OF THE STATE OF FLORIDA.

### **ARTICLE 6: CLERK'S OBLIGATIONS**

Following the execution of this Agreement, CLERK will provide SUBSCRIBER with limited consultation via email on specific problems or questions that arise in the use of the subscription site. CLERK neither guarantees consultation results nor warrants or represents that all errors or problems will be corrected. Assistance will only be available Monday through Friday, from 8:00 a.m. to 5:00 p.m. with the exception of holidays observed by the CLERK.

### **ARTICLE 7: SUBSCRIBER'S OBLIGATIONS AND SYSTEM SECURITY**

SUBSCRIBER agrees that he is responsible for all equipment, maintenance, and repair work required to keep SUBSCRIBER'S equipment in operating order, and to make connectivity to the CLERK'S subscription site through SUBSCRIBER'S Internet Service Provider.

SUBSCRIBER agrees to ensure that its User ID and password are not used by any other person to access information from the CLERK'S subscription site and agrees that such activity, if allowed, is grounds for immediate termination in accordance with Article 14 of this Agreement.

SUBSCRIBER is responsible for ensuring that its location or its terminal is not used by unauthorized users to access information from the Clerk's Secured Access Website. Unauthorized users for the purposes of this agreement shall be any person or entity other than Subscriber or its Authorized Users that are listed in Exhibit "B." Subscriber shall amend the Authorized User List by submitting amendment in writing to Clerk. Clerk will revoke and issue login ID and password upon receipt of Subscriber's request to amend the Authorized User List.

Information accessed from the subscription site is solely for the use of SUBSCRIBER in the ordinary course of its business. The information is neither intended nor permitted to be represented during commercial resale as the official governmental record required by law. In the event of a breach of this paragraph, CLERK is entitled to seek injunctive relief restraining SUBSCRIBER from accessing information from the subscription site, and/or terminate this Agreement in accordance with Article 14 herein. This shall not be construed as prohibiting the CLERK from pursuing any other remedy available at law or equity for such breach.

SUBSCRIBER is responsible for ensuring that use of the CLERK'S subscription site is conducted in a proper and legal manner. If SUBSCRIBER is charged with a crime arising out of the use of information obtained from the subscription site, CLERK shall have the right to terminate this Agreement immediately. This shall not be construed as prohibiting CLERK from pursuing any other remedy available at law or equity for such a breach.

SUBSCRIBER is responsible for making timely advanced annual payment to CLERK in the applicable amount, as set forth in ARTICLE 8, PRICING.

#### **ARTICLE 8: PRICING**

Pricing is as follows:

A. Calendar year annual fee for one user is: \$150.00. Each additional user is \$50.00 per user per year. Sharing of user login/passwords will be a violation of this agreement. See also Article 7 above and Exhibit B.

B. The effective date of service begins on the day the agreement is signed/delivered to the Clerk and renewable on the same day/month each year thereafter.

The fees must be paid in full prior to initiation of service. Fees are subject to change annually (January 1<sup>st</sup> of each year). Fees are not refundable, except as provided in Article 14. No fee credit will accrue during periods the subscription site is out of service.

## **ARTICLE 9: LIMITATION OF LIABILITY**

SUBSCRIBER hereby relieves and releases CLERK, his/her employees and agents from liability from any and all damages resulting from interrupted service of any kind, including SUBSCRIBER'S equipment.

SUBSCRIBER hereby relieves, releases, indemnifies, and holds harmless CLERK, his employees and agents from any liability for any and all damages resulting from incorrect or any other misinformation accessed from the subscription site.

SUBSCRIBER agrees that CLERK, his/her employees and agents shall not be liable for negligence or lost profits resulting from any claim or demand against SUBSCRIBER by any other party.

No cause of action, regardless of form, arising out of the transactions under this Agreement, may be brought by either party more than one (1) year after the cause of action occurred, except that an action for nonpayment may be brought at any time permitted by law.

In no event shall CLERK, his/her employees or agents be liable for consequential damages even if any of the above named parties has been advised of the possibility of such damages.

This Agreement creates no rights or privileges that are enforceable by anyone not a party to this Agreement. A gap may exist between the time paper documents are filed in the CLERK'S office and when they are indexed and imaged on the subscription site. In order to assure the accuracy of the data or information, SUBSCRIBER should consult the governmental record.

The CLERK is neither responsible nor liable for subscription site failures and down time caused by an act of God, floods, fires, storms, strikes, lockouts, disputes with employees, riot, war, acts of public enemy, government restrictions, prohibitions, regulations, or other interferences beyond his control. His/her only responsibility is to bring the subscription site back to acceptable operating efficiency as quickly as available time and resources will allow.

Nothing in this Agreement shall be construed as waiving the sovereign immunity of CLERK, his employees and agents.

## **ARTICLE 10: WARRANTIES**

Neither CLERK, his/her employees or agents expressly or impliedly warrant that the information or data accessed by SUBSCRIBER is accurate or correct. There are no expressed or implied warranties in connection with use of the subscription site.

## **ARTICLE 11: ASSIGNMENT**

SUBSCRIBER agrees not to assign any right or interest in this Agreement.

## **ARTICLE 12: GOVERNING LAW**

This Agreement or any dispute arising therefrom shall in all respects be governed by and interpreted in accordance with the applicable laws of the State of Florida, and venue for any action shall be Hernando County.

## **ARTICLE 13: NOTICE**

Except as contained elsewhere in this Agreement, any notice or communication of any kind required or desired to be given or sent pursuant to the terms hereof shall be delivered in person or mailed postage prepaid by certified mail to the other party at the address given in Exhibit "A". This does not include casual reminders that may be sent by the CLERK from time to time via e-mail or telephone.

## **ARTICLE 14: TERMINATION**

This Agreement may be terminated without cause by either party on fifteen (15) days written notice to the other party.

This Agreement may be terminated immediately by CLERK and without notice to SUBSCRIBER for SUBSCRIBER'S failure to comply with the terms of this Agreement.

This Agreement shall be terminated immediately by CLERK if CLERK fails to receive appropriate and continued funding for operation of the subscription site provided under this Agreement. In the event immediate termination is required, notification to SUBSCRIBER will be by facsimile transmission or via telephone contact followed up by written confirmation.

This Agreement shall be terminated by the CLERK on January 2 of any calendar year in which SUBSCRIBER fails to pay in advance the annual subscription fee. In order for a SUBSCRIBER, whose services have been terminated for failure to make timely payment, to have services re-activated, the annual fee must be paid. A new User ID and password may be assigned, at the sole discretion of the CLERK.

Upon termination of this Agreement, access to the subscription site providing access to the Official Records to SUBSCRIBER will cease.

CLERK may terminate this Agreement immediately if for any reason the subscription site program is terminated. In the event immediate termination is required, notification will be by facsimile transmission or via telephone contact followed up by written confirmation.

This Agreement shall be terminated by CLERK immediately and without notice to SUBSCRIBER in the event CLERK determines that any safeguard to protect the contents of its Official Records from (1) unauthorized remote access, (2) alteration, or (3) disclosure or modification or exempted matters fail to exist or has been breached.

A full or partial refund of subscription fees may be available only when the CLERK initiates termination, and only when such termination is not based upon an act

of non-compliance on the part of the SUBSCRIBER. Such refund shall be at the sole discretion of the CLERK.

#### **ARTICLE 15: SEVERABILITY**

If any provision (or part thereof) of this Agreement is found to be invalid, then it shall be stricken and have no effect. The remaining provisions shall continue in full force and effect.

**ARTICLE 16: ENTIRE AGREEMENT**

This Agreement contains the entire understanding of the parties, there being no promises, warranties, or undertakings, written or oral, other than those expressly set forth herein. Furthermore, no modifications, alterations or amendments to this Agreement shall be valid unless in writing, and signed by all parties, except as otherwise provided herein.

This Agreement is hereby entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
**Don Barbee Jr.**  
Clerk of the Circuit Court & Comptroller  
Hernando County, Florida

Before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, a Deputy Clerk in and for Hernando County, Florida, personally appeared **Don Barbee Jr.**, known to me to be the person who executed this Subscription Agreement.

\_\_\_\_\_  
Deputy Clerk

Subscriber's Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**STATE OF** \_\_\_\_\_

**COUNTY OF** \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_,  
by \_\_\_\_\_, who is personally known \_\_\_ OR  
produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

**---seal---**

**EXHIBIT A**

**CONTACT INFORMATION**

**This Exhibit A must include the address(es) to which all required written correspondence between the parties shall be mailed, in accordance with Article 13.**

**FOR CLERK:**

Don Barbee Jr., Clerk of Circuit Court & Comptroller  
20 North Main Street – RM# 362  
Brooksville, FL 34601  
Attn: Recording Department

If you have any questions, please e-mail us at:  
[www.hernandoclerk.com](http://www.hernandoclerk.com)

Assigned User Name & Password: \_\_\_\_\_  
(Note: User Name/Password will be provided via telephone)

**FOR SUBSCRIBER:**

Individual Signing Agreement as Subscriber

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/St/Zip \_\_\_\_\_

Phone ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

Fax: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

E-Mail \_\_\_\_\_

**EXHIBIT B**

**ADDITIONAL USERS AUTHORIZED UNDER SUBSCRIBER'S AGREEMENT**

**Subscriber:** List the name of each individual for which you are authorizing access to the Clerk's Secured Access Website under the terms of your Subscriber Site Agreement. Each User will be issued a unique login id and password. You (Subscriber) are responsible for ensuring that each user only has knowledge of his/her individual login id and password. **Sharing of user login/passwords will be grounds for immediate termination of this entire agreement. You MUST notify the Clerk immediately upon termination of privileges of any of these users so that the Clerk can disable the user's login.** FAILURE TO DO SO WILL BE GROUNDS FOR IMMEDIATE TERMINATION OF THIS AGREEMENT AND ACCESS TO THE CLERK'S SUBSCRIPTION WEBSITE WILL BE IMMEDIATELY TERMINATED.

**Subscriber: List any/all Authorized User's below:**

Subscriber's Information:			This section for Clerk use only:	
User	User's Name	Date of Request:	User Login	User PW
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

**INSTRUCTIONS FOR COMPLETING  
“SUBSCRIPTION SERVICE AGREEMENT”  
AND  
SUBMITTING PAYMENT**

1. Complete all sections of the Agreement.
2. Subscribers’ signature Must be signed and notarized.
3. Payment made payable to: Hernando County Clerk of Court
4. Mail completed Agreement and payment to:

Hernando County Clerk, Recording Division – RM#362,  
20 North Main Street, Brooksville, FL 34601

Once your Subscription Agreement has been received, you will be contacted with your login(s) and password(s).

Please contact Jenine Wimer or Jo Ann Pilgrim if you have any questions regarding the agreement and/or subscription service.

Phone Number: (352) 540-6768