



# YAKIMA COUNTY CLERK

OFFICE OF COUNTY CLERK & EX-OFFICIO CLERK OF SUPERIOR COURT

**Billie Maggard**, COUNTY CLERK

128 NORTH SECOND STREET, ROOM 323

YAKIMA WA 98901

## Subscription Agreement Data Access for Odyssey Portal

Revision Date: March 2024

THIS AGREEMENT is entered into in duplicate originals between the YAKIMA COUNTY CLERK, (hereinafter “**Clerk**”), with its principal offices at 128 North Second St. Rm #323, Yakima Washington 98901 and \_\_\_\_\_, with its principal offices at, \_\_\_\_\_, (hereinafter “**Subscriber**”).  
(Firm / Agency Name)  
(Street Address, - and PO Box if applicable-      City, State, Zip)

In consideration of the mutual terms, conditions and covenants hereinafter set forth, **Clerk** and **Subscriber** agree as follows:

- 1. PURPOSE:** The purpose of this Agreement is to establish the terms and conditions under which the Clerk agrees to provide electronic access to public documents.
- 2. DEFINITIONS:** As used throughout this Agreement, the following terms shall have the meanings set forth below:
  - “Agreement” shall mean this agreement upon being duly executed by authorized individuals for each party.
  - “Clerk” shall mean the Yakima County Clerk.
  - “Court” shall mean the Yakima County Superior Court.
  - Attorney “**Subscriber**” shall mean an attorney, law firm, and its managing member or authorized employees whose primary purpose is the provision of legal services. Attorneys who enter into subscription agreements with the **Clerk** will be given access to non-confidential court records. Attorney **Subscriber** may request access to the confidential file of a court case wherein he/she is an attorney of record but will not be given access to those case types that require a court order for access.
  - Non- Attorney “**Subscriber**” shall mean persons who desire electronic access to non-confidential court records, but who are not regularly engaged in the provision of legal services.
  - “User” shall mean those individuals employed by a Subscriber who is authorized by the Subscriber to have electronic access.
  - “Data” shall include any computer readable copies of any public documents provided to the **Subscriber**.
  - “Information” shall mean material provided by **Clerk** in any format, including reports.

### **3. TERM AND EFFECTIVE DATE OF AGREEMENT:**

The term of this Agreement shall commence on the date of execution by the **Clerk** and continue for one calendar year, unless terminated earlier as provided for herein. The parties may renew this Agreement for additional one-year periods upon **Subscriber's** payment of the annual fee.

### **4. SCOPE OF THE AGREEMENT:**

#### **RESPONSIBILITIES OF THE CLERK:**

- a. The **Clerk** shall provide **Subscriber** access through Odyssey Portal via the internet (the "Web") to those electronic records in the **Clerk's** Court Records available for access by the public which the **Clerk** has prepared for such access.
- b. The **Clerk** makes no representations about the accuracy or completeness of the filed documents. The **Clerk** further provides no warranties, express or implied, that the information or data provided is current or complete. It is expressly understood by the parties that it is the responsibility of the **Subscriber** and/or its employees and clients to verify information or data obtained under this Agreement with the filer of the information reposing at the court of record.
- c. Access will be provided seven (7) days a week, 24 hours per day excluding scheduled maintenance periods, interruption in **Subscriber's** Internet service, or any delay or lapse in service as set forth in Section 8.

#### **RESPONSIBILITIES OF THE SUBSCRIBER:**

- a. An **Attorney Subscriber** warrants that he/she is a member in good standing of the Washington State Bar Association, that the primary purpose of his/her business is the provision of legal services.
- b. The **Subscriber** assumes all risk of relying on the data and information accessed pursuant to this Agreement.
- c. The **Subscriber** shall be responsible for all activities of users who obtain access through use of the **Subscriber's** user identifier and password. The **Subscriber** shall not allow access to the **Clerk's** information system by unauthorized persons.
- d. The **Subscriber** will be responsible for all training of their personnel in the operation of equipment and software used to connect to, and operate, the Odyssey Portal internet application.
- e. The **Subscriber** shall not publish or sell data or information obtained pursuant to this Agreement unless otherwise provided herein. **Subscriber** shall not acquire any proprietary rights, exclusive or otherwise, to any data or information obtained pursuant to this Agreement.
- f. It shall be the **Subscriber's** obligation to ensure that only authorized users have access to the services provided through the **Subscriber's** subscription. Each user is required to have a personal login account. No person may access documents without using the personal login account assigned to that person. Violation of this provision shall result in immediate suspension

of access to the data and information and may result in termination of the Agreement pursuant to Section 9.

- g. The **Subscriber** shall comply with the provisions of this Agreement and all the terms and conditions herein.
- h. The **Subscriber** always agrees to exercise the same care with respect to the user identifiers and passwords, if any, or any other materials or information provided by the **Clerk** that the **Subscriber** would exercise in the protection of the **Subscriber's** own confidential information or property and to not release or disclose passwords to any other person without the **Clerk's** prior consent. If the **Subscriber** becomes aware of any release or unauthorized use of user identifiers or passwords, **Subscriber** shall notify **Clerk** immediately to arrange to reset the identifiers or passwords.
- i. Upon request by the **Clerk**, **Subscriber** shall return or destroy any information and data provided by the **Clerk** in error, including but not limited to documents marked confidential, sealed or otherwise not subject to public access. The **Subscriber** shall notify the **Clerk** if a document marked confidential, sealed or otherwise not subject to public disclosure has been found in the public view.
- j. The **Subscriber** acknowledges and accepts that all information and data provided under this Agreement is provided on an AS IS basis and that the **Clerk** shall not be responsible for providing support or assistance of any nature to the **Subscriber** or any third party on behalf of the **Subscriber**.

## **5. AMENDMENTS AND CHANGES IN WORK**

- a. No amendment, modification or renewal shall be made to this Agreement unless set forth in a written Agreement Amendment, signed by both parties. All amendments, modifications or renewals shall be signed by both parties and attached to this Agreement. Work under an Agreement Amendment shall not proceed until the Agreement Amendment is duly executed by the **Clerk**.
- b. The **Clerk** specifically reserves the right, in its sole discretion, to make any changes it deems appropriate to the information and data provided under this Agreement, at any time and without prior notice. Such changes include but are not limited to altering the character and format of the information based on subsequent court order(s).

## **6. REPRESENTATIVES TO THIS AGREEMENT**

Each party to this Agreement shall have an Agreement representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

**For Subscriber:**

Name of Representative:	
Title:	
Mailing Address:	
City, State, Zip:	
Telephone Number:	
Fax Number:	
E-mail Address:	

**For Clerk:**

Name of Representative:	Kerrie Regimbal
Title:	Clerk's Records Supervisor
Mailing Address:	Yakima County Clerks Office / 128 N. 2 <sup>nd</sup> Street, Room 323
City, State, Zip:	Yakima WA 98901
Telephone Number:	509-574-1430 ext. 1447
Fax Number:	509-574-1437
E-mail Address:	<a href="mailto:YakimaOdysseyPortal@co.yakima.wa.us">YakimaOdysseyPortal@co.yakima.wa.us</a> / <a href="mailto:kerrie.regimbal@co.yakima.wa.us">kerrie.regimbal@co.yakima.wa.us</a>

**7. COMPENSATION**

The **Subscriber** shall pay **Clerk** for services provided pursuant to this Agreement.

a. A **fee based on the number of staff you employ** is due and payable to the **Clerk**. This amount is due and payable at the time of the execution of this Agreement. No refund shall be provided under this Agreement. This fee includes the cost of the Portal registration, maintenance, overhead and expenses.

<b><u>Company/Firm/Division Size</u></b>	<b><u>Annual Fee</u></b>
1-3 Individuals/employees	\$100.00
4-6 Individuals/employees	\$250.00
7-10 Individual/employees	\$500.00
More than 10 Individuals/employees	\$600.00

b. **Clerk** will invoice the **Subscriber** yearly, with the execution date of this Agreement determine the billing cycle. The invoice will be mailed at least 60 days before the end of the calendar year. Payment will be due no later than 30 days before the start of the new year service. **The subscriber** shall be deemed in default if payment is not received before the stated due date on the invoice. Upon default, the **Clerk** may terminate the Agreement pursuant to Section 9.

## **8. HOLD HARMLESS AND LIMITATION ON LIABILITY**

- a. Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its users, its officials, employees, and agents.
- b. **Subscriber** agrees that Yakima County and the **Clerk** shall not be liable for any claim or damages of any nature arising out of or connected with **Subscriber's** use of the data and information made available to **Subscriber** under this Agreement or for delays or lapses in furnishing data and information under this Agreement including:
  - Failure in the service furnished by the **Clerk** under this Agreement.
  - Failure of the **Clerk's** equipment, software or other communications or computer equipment for any reason.
  - Loss or damages which result from any act of nature, fire, civil disturbance, strike, work stoppage, power failures, laws, regulations, order of any governmental agency or official, or any other cause not within the **Clerk's** control.

In the event of any delay or lapse in furnishing data or information, the **Clerk** shall resume performance as soon as practicable upon cessation of the condition preventing performance.

## **9. TERMINATION**

- a. At the end of any one-year term, either party may terminate this Agreement by giving 10 days written notice to the representative of the other party.
- b. If the **Subscriber** breaches any of its obligations hereunder and fails to cure the breach within (5) days of written notice to do so by the **Clerk**, the **Clerk** may terminate this Agreement.
- c. On the effective date of termination, the **Clerk** will disable the data access provided for in this Agreement.

## **10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING**

The **Subscriber** shall perform the terms of the Agreement using only its bona fide employees or agents, and the obligations and duties of the **Subscriber** under this Agreement shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the **Clerk**.

## **11. NON-WAIVER OF RIGHTS**

The parties agree that the excuse or forgiveness of performance or waiver of any provision of this Agreement does not constitute a waiver of such provision(s) or future performance or prejudice the right of the waiving party to enforce any of the provisions of this Agreement at a later time.

## **12. COMPLIANCE WITH LAWS**

The **Subscriber** shall comply with all applicable federal, state and local laws, rules and regulations in performing this Agreement.

## **13. NONDISCRIMINATION**

The **Subscriber**, its assignees, delegates or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, ethnicity, religion, national origin, age, sex, marital status, veteran status, sexual orientation or the presence of any disability. Implementation of this provision shall be consistent with RCW 49.60.400.

## **14. OWNERSHIP OF MATERIAL/WORK PRODUCED**

All reports, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work by the **Clerk** under this Agreement shall remain the property of the **Clerk**, which shall retain the exclusive ownership of said items.

## **15. DISPUTES**

Differences between the **Subscriber** and the **Clerk**, arising under and by virtue of this Agreement shall be brought to the attention of the **Clerk** at the earliest possible time in order that such matters may be settled, or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation shall be decided by the **Clerk's** representative or designee. All rulings, orders, instructions and decisions of the **Clerk's** representative shall be final and conclusive.

## **16. CHOICE OF LAW, JURISDICTION AND VENUE**

- a. This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance.
- b. Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Yakima County, Washington.

## **17. SEVERABILITY**

If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

## **18. ENTIRE AGREEMENT**

The parties agree that this Agreement is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded.

## **19. NOTICES**

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Section 6. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of mailing or immediately if personally served. For service by facsimile, service shall be effective upon receipt during working hours. If a facsimile is sent after working hours, it shall be effective at the beginning of the next working day.

Subscriber:

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Signature of Subscriber

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Printed name of Subscriber

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Title

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Date

Clerk:

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Billie Maggard, Yakima County Clerk

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Date