

**POLK COUNTY CLERK OF THE CIRCUIT COURT
SECURED ACCESS COURT RECORDS WEBSITE AGREEMENT**

This Agreement, dated October 8th, 2009, is made and entered into by and between Richard M. Weiss, Clerk of the Circuit Court for Polk County, Florida, hereinafter referred to as "CLERK" and Department of Juvenile Justice , hereinafter referred to as "SUBSCRIBER."

WHEREAS Section 119.085 of the Florida Statutes allows public records Custodian(s) to provide access to the records by electronic means; and

WHEREAS Florida Supreme Court Administrative Order SC07-49 and Tenth Judicial Circuit Administrative Order 1-45.0 authorize the Clerk to provide electronic access to non-confidential court records to governmental agencies, and

WHEREAS Subscriber is a governmental agency listed in Tenth Judicial Circuit Administrative Order 1-45.0, and

WHEREAS CLERK desires to provide SUBSCRIBER access to certain public records within his 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 subscriber site to non-public, non-confidential secure electronic copies of Criminal Court Records indices and images;

NOW THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises and covenants 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 Richard M. Weiss, Clerk of Circuit Court, Polk County, Florida.

"SUBSCRIBER" shall mean the entity or individual executing this Agreement by affixing an authorized signature below before a Notary Public.

"Unauthorized User" shall mean any person or entity other than SUBSCRIBER or its authorized USERS listed in Exhibit "A".

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

ARTICLE 2: TERM OF AGREEMENT

This Agreement will remain in force until cancelled in writing by either party in accordance with Article 13 herein. The written cancellation notice must be received at least 15 days prior to the actual cancellation date. Written amendments relative to various aspects of the Agreement may be required from time to time, and the SUBSCRIBER will have the option of accepting amendment conditions or terminating the Agreement.

ARTICLE 3: SCOPE OF AGREEMENT

CLERK and SUBSCRIBER agree that the scope of this Agreement shall be to allow access to electronic records in the Clerk's Criminal Court Records which are otherwise prohibited by Florida Statutes and Rules of court from being accessed from the CLERK'S publicly available Internet website.

ARTICLE 4: DAYS AND HOURS OF OPERATION

CLERK will endeavor to provide continuous operation of the non-public subscriber site wherein SUBSCRIBER accesses records; however, site access may be interrupted during periods of remedial maintenance as may be required. CLERK will post advance notice of scheduled maintenance on the site, and routine maintenance will be scheduled after 5:00 p.m. and before 8:00 a.m. or during weekends or holidays. CLERK assumes no responsibility for system downtime during hours of availability. SUBSCRIBER is hereby made aware that the system may be unavailable at the option of the CLERK.

CLERK reserves the right to reduce or limit the subscriber 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 employees or agents, will provide SUBSCRIBER with access to the electronic records via the subscriber site.

SUBSCRIBER is responsible for all maintenance and repair work required to keep SUBSCRIBER'S equipment in operating order, and to make connectivity to the Clerk's subscriber site through SUBSCRIBER'S Internet Service Provider.

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

ARTICLE 6: SUBSCRIBER'S OBLIGATIONS

By signing this Agreement, SUBSCRIBER will take all necessary precautions to maintain the security and integrity of the CLERK'S computer system. Specifically, SUBSCRIBER will educate users of their responsibility to keep access identification and passwords confidential, and to use the system only to fulfill their work duties on behalf of SUBSCRIBER.

SUBSCRIBER is responsible for ensuring that its location or its terminal is not used by Unauthorized Users to access information from the Clerk's subscriber site.

Information accessed from subscriber site is for the use of SUBSCRIBER in the ordinary course of its business. The information is not intended or permitted to be commercially resold 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 subscriber site, and/or terminate this Agreement in accordance with Article 13 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 subscriber site by its Authorized Users is conducted in a proper and legal manner. If SUBSCRIBER or one of its Authorized Users is charged with a crime arising out of use of the subscriber 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.

THE INFORMATION ON THE SUBSCRIBER SITE IS PROVIDED SUBJECT TO THE LAWS OF THE STATE OF FLORIDA.

ARTICLE 7: LIMITATION OF LIABILITY

SUBSCRIBER hereby relieves and releases CLERK, his employees and agents from liability from any and all damages resulting from interrupted service of any kind or to SUBSCRIBER'S Equipment.

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

SUBSCRIBER agrees that CLERK, his 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 has occurred.

IN NO EVENT SHALL CLERK, HIS 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 subscriber site. In order to assure the accuracy of the data or information, SUBSCRIBER should consult the official governmental record.

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

ARTICLE 8: WARRANTIES

NEITHER CLERK NOR HIS 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 THIS SERVICE.

ARTICLE 9: ASSIGNMENT

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

ARTICLE 10: GOVERNING LAW

This Agreement or any dispute arising there from 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 Polk County.

ARTICLE 11: 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.

ARTICLE 12: NOTICE

Any notice or written 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".

ARTICLE 13: TERMINATION

This Agreement may be terminated without cause by either party upon 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.

Upon termination of this Agreement, access to the subscriber site providing access to the Court Record electronic images to SUBSCRIBER will cease.

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

This Agreement shall be terminated by CLERK, the Custodian of the public records, immediately and without notice to SUBSCRIBER in the event CLERK determines that any

EXHIBIT A

Date: **October 8, 2009**

CONTACT INFORMATION

This contact information includes the addresses to which all required written correspondence between the parties shall be mailed, in accordance with Article 12.

FOR CLERK:
Richard M. Weiss, Clerk of Circuit Court

FOR SUBSCRIBER:
Name: Judith H. Roysden
Title: Chief Probation Officer

Subscriber site:
255 North Broadway
Drawer CC-1, Post Office Box 9000
Bartow, FL 33831-9000
Fax: (863) 534-4584
Phone: (863) 534-4334
E-Mail: micHELLEYodonis@polk-county.net

Agency: Department of Juvenile Justice
Address: 195 South Broadway Avenue
City/St/Zip: Bartow, Florida 33830
Phone: (863) 519 - 8546
Fax: (863) 519 - 8587
E-Mail: Judy.Roysden@dji.state.fl.us

USERS AUTHORIZED UNDER SUBSCRIBER'S SERVICE AGREEMENT

Subscriber: Please list the name of each individual for which you are authorizing access to subscriber site records under the terms of your subscriber site agreement. Each user will be issued a unique login id and password. You are responsible for ensuring that each user only has knowledge of his individual login id password. 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.

Please put any additional users on a separate sheet of paper.

User Name	Phone Number	Fax Number	Email Address