

**NORTH CAROLINA  
WAKE COUNTY**

**LICENSING AGREEMENT – ONLINE ACCESS**

This Licensing Agreement (hereinafter, “Agreement”) is entered into on the date set forth below between the North Carolina Administrative Office of the Courts (“NCAOC”) and **LICENSEE NAME** (“LICENSEE”), a **STATE OF INCORPORATION** corporation. The LICENSEE’s address is **ADDRESS**. The LICENSEE’s federal tax identification number is **TAX ID #**.

The purpose of this Agreement, entered into pursuant to North Carolina General Statute §7A-109(d), is to establish the terms and conditions under which the NCAOC agrees to provide the LICENSEE electronic access to the NCAOC’s computing system in order that the LICENSEE may access the data contained in the NCAOC’s criminal and civil databases.

**1. GRANT OF LICENSE**

The NCAOC hereby grants a non-exclusive license to the LICENSEE to access and use the NCAOC’s civil and criminal case databases (the “Databases”) to obtain information regarding civil and criminal cases (the “Data”) according to the terms and conditions set forth in this Agreement. In consideration of the mutual promises made to each other, as herein set forth, the NCAOC and the LICENSEE agree as follows:

**2. SPECIFIC TERMS AND CONDITIONS**

**2.1 Basic Transaction**

- 2.1.1 The LICENSEE will access the NCAOC computer in Raleigh, North Carolina, via a connection method offered by the NCAOC in “Remote Public Access Connectivity Information.” The LICENSEE will, at its expense, provide any and all software and equipment required to maintain its connection.
- 2.1.2 Limited Help Desk and technical services, subject to the availability of NCAOC staff and resources, are extended to the LICENSEE, and will be provided to or coordinated with only the individuals designated pursuant to Section 3.11 of this Agreement.
- 2.1.3 The NCAOC specifically reserves the right, at its sole discretion, to alter operating hours, computer programs, and network services, including application screen and/or display changes, at any time and without prior notice.

2.1.4 Pursuant to the terms of this Agreement, the LICENSEE is given the non-exclusive right to use, as limited by the scope of licensed use set forth in Section 2.2, the NCAOC's Databases.

## 2.2 Scope of Licensed Use

2.2.1 The LICENSEE's access to the NCAOC's Databases provided pursuant to this Agreement is limited solely to uploading of that Data authorized by the NCAOC on a transaction-by-transaction basis onto the LICENSEE's remote access system and making it accessible to the LICENSEE's remote access system users. The LICENSEE may not use or authorize the use of the NCAOC's Databases for any other purposes without prior written consent of the NCAOC.

2.2.2 By supplying the NCAOC's Data to the LICENSEE, the NCAOC is not granting the LICENSEE any rights other than those specified in this Agreement.

## 2.3 Obligations of the LICENSEE

2.3.1 Definitions – In Section 2.3, the following definitions apply:

2.3.1.1 Customer – a person that directly or indirectly purchases or acquires from a LICENSEE any Data provided pursuant to this Agreement, whether repackaged, reformulated, reformatted, or copied, whether for its own use or to provide search services to its own customers or subscribers, if said Data are transmitted in a format that contains data elements from more than one case.

2.3.1.2 Subscriber – any person that acquires from the LICENSEE the results of the LICENSEE's search of any Data provided to the LICENSEE pursuant to this Agreement, or a subset of the Data, or the right to conduct its own searches of the Data.

### 2.3.2 NCAOC's Databases

2.3.2.1 The LICENSEE hereby agrees to supply the NCAOC with all company, contact, and password administrator information required under Section 3.11 of this Agreement, and to abide by the additional terms and conditions therein for contact between the NCAOC and the LICENSEE.

2.3.2.2 The LICENSEE recognizes and hereby acknowledges that the user identifiers, passwords, and computer programs, if any, supplied by the NCAOC to the LICENSEE are the confidential property of the NCAOC, subject to the proprietary rights of the

NCAOC, and agrees to hold such user identifiers, passwords, and computer programs, if any, in the strictest confidence. The LICENSEE further agrees to exercise at all times the same care with respect to the user identifiers, passwords, and computer programs, if any, or any other materials or information provided hereunder by the NCAOC as the LICENSEE would exercise in the protection of the LICENSEE's own confidential information or property.

- 2.3.2.3 The LICENSEE hereby agrees it will comply with the license terms of any NCAOC computer programs used under this Agreement, and that it will not alter or modify any computer programs without the prior written permission of the NCAOC.
- 2.3.2.4 The LICENSEE hereby agrees to pay all amounts due under this Agreement, as described in Section 2.4, including payment for any and all access to the NCAOC's Databases for all user identifiers provided to the LICENSEE under this Agreement.
- 2.3.2.5 The LICENSEE recognizes and hereby acknowledges that the NCAOC has no obligation to maintain or upgrade any computer programs provided under this Agreement, except as the NCAOC deems necessary.
- 2.3.2.6 The LICENSEE recognizes and hereby acknowledges that the official custodian of all official court records for each county is the clerk of superior court of that county, and that the NCAOC is not the official custodian of any record provided.
- 2.3.2.7 The LICENSEE will not identify the NCAOC as the source of any information about a person, other legal entity, or court proceeding, provided to a customer or subscriber, if the information provided, in whole or in part, does not match exactly the current content, if any, from the identified record in NCAOC's Databases at the time of the customer's or subscriber's inquiry that resulted in the provision of information.

Whether or not the LICENSEE identifies the NCAOC as the source of any information, if the LICENSEE provides information to a customer or subscriber that does not match as described above, the LICENSEE agrees to execute a performance bond, as described in Subsection 2.5.2.4, and as provided on form AOC-A-204 (Performance Bond for Licensing Agreement), and to be bound to the terms and conditions thereof.

2.3.2.8 If the LICENSEE identifies the NCAOC at any time or in any manner as the source of any Data provided to a customer or subscriber, the LICENSEE hereby agrees to the following:

- 1) To prominently display a disclaimer in each report of Data provided to a subscriber, with each transfer of Data to a customer, and at each search access portal made available to a subscriber. The disclaimer shall read:

The official custodian of all official court records for each county in North Carolina is the clerk of superior court of that county. The North Carolina Administrative Office of the Courts is not the official custodian of any case record and provides only copies of data entered by the clerks. To verify a record's accuracy, contact the clerk of the county of record.

- 2) To provide each of its customers and subscribers with a copy of the "Warranties" and "Limitation of Liability" sections of this Agreement.

2.3.2.9 The LICENSEE recognizes and hereby acknowledges that the NCAOC has no responsibility or obligation to the LICENSEE's customers or subscribers, nor will the NCAOC incur any liability to or for such customers or subscribers as a result of this Agreement. The LICENSEE acknowledges that it is solely responsible for its customers' and subscribers' support, and agrees that it shall not refer any customer or subscriber to the NCAOC for support purposes or for information concerning data provided to such parties by the LICENSEE.

2.3.2.10 The LICENSEE agrees to provide the NCAOC with a list of the LICENSEE's customers and subscribers, upon request of the NCAOC.

2.3.2.11 The LICENSEE agrees to require its customers and subscribers not to state or advertise in any way that they acquired their data from the NCAOC or that the NCAOC is the source of their data.

2.3.2.12 As part of this Agreement (see Attachment C), the LICENSEE agrees to provide the NCAOC with a list of all of the LICENSEE's websites, subsidiaries that use or distribute information obtained from the NCAOC, and all other names by which the LICENSEE does business. The LICENSEE agrees to update this list and send it to the NCAOC within thirty (30) days of any change.

2.3.2.13 The LICENSEE agrees to notify the NCAOC within thirty (30) days of any change of ownership of the LICENSEE. If the former owner maintains no interest in the LICENSEE, this licensing agreement will terminate, and a new licensing agreement will be required for the new company to become an NCAOC licensee.

### 2.3.3 Information Accessed

2.3.3.1 The LICENSEE recognizes, acknowledges, and agrees that its rights under this Agreement to gain access to the NCAOC's Databases are subject to the priority use by judges, district attorneys, clerks of court, public defenders, magistrates, NCAOC employees and their staff and agents, and other State and local government agencies that access the system in order to perform their legal duties, including but not limited to, law enforcement agencies ("Priority Users").

2.3.3.2 The LICENSEE acknowledges that should the NCAOC experience a system outage or crash such that disaster recovery is activated to run the NCAOC data systems, the LICENSEE will not have access to the Databases, nor will the LICENSEE be entitled to access to the Databases while the NCAOC is operating its systems in disaster recovery mode.

2.3.3.3 The LICENSEE acknowledges and agrees that the NCAOC may at any time, for any reason, delay, limit, or deny access to the system in the event the demand on the system by Priority Users prevents further usage of the system by users other than the Priority Users. The NCAOC shall make reasonable efforts to provide the LICENSEE with prompt written notice of the denial of access and the anticipated duration of such denial of access.

2.3.3.4 The LICENSEE acknowledges and agrees that the NCAOC may, at any time, delay, limit, or deny access to the system for required system maintenance. The NCAOC shall make reasonable efforts to provide the LICENSEE with prompt notice of the denial of access and the anticipated duration of such denial of access.

2.3.3.5 The LICENSEE acknowledges and agrees that the NCAOC's denial or refusal of access to the LICENSEE shall not be a basis for termination of the Agreement, except as provided in Section 2.8, nor shall it be considered a breach of the Agreement.

#### 2.3.4 Prohibited Use of Judicial Branch and NCAOC Information

- 2.3.4.1 Logos, marks, documents, names, and acronyms of the NCAOC and its Databases are the sole property of the NCAOC.
- 2.3.4.2 The LICENSEE is prohibited from use or display, in whole or in part, of the North Carolina Judicial Branch's or North Carolina Administrative Office of the Courts' names; documents; screen shots; logos; copyrighted materials; disclaimers; terms; system or application names, including, but not limited to, the Automated Criminal/Infractions System (ACIS), the Criminal Court Information System (CCIS), and the Civil Case Processing System (VCAP); calendars; forms; or any other documents in the LICENSEE's literature, advertisements, promotional materials, demonstrations, or applications. Further, except as required by Subsection 2.3.2.8 of the Licensing Agreement, the LICENSEE may not use or display any information concerning the North Carolina Judicial Branch or NCAOC without the express written permission of the NCAOC.
- 2.3.4.3 Any use by the LICENSEE of information stated in Subsection 2.3.4.2 above that in the opinion of the NCAOC is false or misleading, or gives the appearance of the LICENSEE's application, entity, or services being owned, maintained, approved, sponsored, certified, or endorsed by the NCAOC or the North Carolina Judicial Branch, will, in the sole discretion of the NCAOC, be a basis for termination of the Licensing Agreement.

#### 2.4 Costs

- 2.4.1 The LICENSEE agrees to pay all amounts due under this Agreement, as specified in Attachment A, "Online Access Fees," which is appended to this Agreement.
- 2.4.2 The LICENSEE will be charged a non-refundable setup fee that **must be paid with a cashier's check**. The LICENSEE will also be charged a fee per user identifier for any additional user identifiers desired beyond the number covered by the setup fee, as provided in Attachment A.
- 2.4.3 The LICENSEE will be charged an access fee per transaction, as provided in Attachment A. A "transaction" is defined as each new task, indicated by the pressing of the "Enter" key, the "PA1," "PA2," or "PA3" keys, the function keys "F1" through "F12," or the "Clear" key. Most times when a transaction occurs, a new screen appears, but that is not always the case. In addition, the user may be billed for any recurring fixed and variable costs that are agreed to prior to billing.

- 2.4.4 If this Agreement is terminated and the LICENSEE's access to the NCAOC's Databases is disconnected pursuant to Subsection 2.8.3 of this Agreement, if the NCAOC consents to reinstate the LICENSEE's access, the LICENSEE must first pay any arrearages and the reinstatement fee set out in Attachment A. **This payment must be made with a cashier's check.**
- 2.4.5 In the event there is an increase in NCAOC's costs of operation, or the NCAOC updates, upgrades, modifies, enhances, or otherwise improves the mainframe capacity of its Databases after the date of this Agreement, the NCAOC reserves the right to adjust the fees set out in Attachment A. Before any fee adjustments take effect, the NCAOC will give the LICENSEE advance notice by providing the LICENSEE with a new Attachment A at least ninety (90) days before the effective date of the adjustment. Within thirty (30) days after receiving notice, the LICENSEE will notify the NCAOC whether the LICENSEE agrees to the increase. If the LICENSEE does not notify the NCAOC of its agreement or objection to the increase within such thirty (30) day period, the LICENSEE will be deemed to have accepted the increase. If the LICENSEE objects to the increase, this Agreement will terminate on the last day before the increase takes effect. Nothing in this subsection will prevent either party from terminating this Agreement in accordance with Subsection 2.8.1.
- 2.4.6 If the LICENSEE is found to have provided data not matching that in the NCAOC's Databases, the LICENSEE will be required to execute a performance bond, as described in Section 2.5 below, and in the amount specified in Attachment A.
- 2.4.7 If the LICENSEE changes its name or tax ID after entering into this licensing agreement with the NCAOC, the LICENSEE must submit a change in name or tax ID form within 30 days of the change, along with the change fee, if required. (See Attachment A for the schedule of fees.) If the ownership of the LICENSEE changes after the execution of this licensing agreement, a new licensing agreement with a new setup fee is required. Failure to notify the NCAOC of a change in ownership within 30 days of its completion is grounds for termination of this agreement, pursuant to Section 2.3.2.13.

## 2.5 Accuracy of Data

- 2.5.1 It is the LICENSEE's duty to provide accurate data to its customers or subscribers. Pursuant to Subsection 2.3.2.7, the data provided must match exactly the current content, if any, of information from the identified record in NCAOC's Databases at the time of the customer's or subscriber's inquiry that resulted in the provision of data.

## 2.5.2 Liquidated Damages and Performance Bond

2.5.2.1 The LICENSEE acknowledges that any breach of its data accuracy duties may have the following impacts:

- 1) Cause it to provide inaccurate data to its subscribers and customers, thus creating the potential for substantial harm to persons whose records are affected and to others who rely on those records.
- 2) Cause NCAOC to incur personnel, technology, and other costs in receiving, investigating, and responding to complaints; verifying inaccuracies and identifying their source; and enforcing the LICENSEE's compliance with its duties under this Agreement.
- 3) Cause NCAOC to incur further expense in dealing with claims arising from the LICENSEE's breach.

2.5.2.2 The parties agree that any damages incurred by NCAOC as a result of any such breach are to some extent speculative and difficult to determine after the breach.

2.5.2.3 Therefore, in order to avoid litigation concerning the nature and extent of the damages resulting from each such breach, to provide NCAOC with reasonable compensation for those damages, to limit the LICENSEE's exposure to an agreed amount, and to provide an incentive to the LICENSEE to maintain accurate data, after two (2) verified breaches of the LICENSEE's data accuracy duties, the LICENSEE will pay to NCAOC, immediately upon NCAOC's verification of the breach, liquidated damages in the amount set out in Attachment A.

2.5.2.4 To secure the payment of liquidated damages, as provided in Subsection 2.5.2.3 above, the LICENSEE, upon the first verified breach of data accuracy, must submit to NCAOC a completed Form AOC-A-204 (Performance Bond for Licensing Agreement). A performance bond in either of the following two forms must be deposited with NCAOC at the same time:

- 1) A cash bond by **cashier's** check in the amount specified in Attachment A under "Performance Bond," to be held by NCAOC in a non-interest bearing account, or
- 2) A corporate surety bond of the same amount, secured by at least one corporate surety.



The LICENSEE must provide annual proof of the renewal or continued maintenance of the bond. Failure to provide such proof within seven days of the request or the expiration or termination of the bond is grounds for termination of this Agreement, pursuant to Subsection 2.8.3.

Upon notification to the LICENSEE that the NCAOC has verified a breach of the LICENSEE's accuracy duties, as described in Subsection 2.5.1 of this Agreement, the LICENSEE shall immediately pay to the NCAOC the liquidated damages amount indicated in Attachment A to this Agreement. If the NCAOC has not received payment of the liquidated damages within thirty (30) days of notice and demand to the LICENSEE, the NCAOC shall pursue forfeiture of the LICENSEE's bond posted pursuant to this section, of which the enforcement costs, including, but not limited to, court costs and attorney fees, shall be borne by the LICENSEE. Liquidated damages must be submitted by a **cashier's** check.

2.5.2.5 Following NCAOC's verification of the LICENSEE's second provision of inaccurate data, this Agreement will terminate and will not be reinstated.

2.5.2.6 Within thirty (30) days after termination of the Agreement under conditions that do not require the forfeiture of the bond, the bond will terminate and any funds deposited with the NCAOC will be refunded to the LICENSEE.

2.5.3 Response to Complaints – Investigation and Termination. The LICENSEE acknowledges and agrees that reports of errors in data provided by the LICENSEE to its subscribers or customers or any other failure to comply with the LICENSEE's data accuracy duties will be subject to investigation and response by the NCAOC, as described in this section.

2.5.3.1 Upon any report or complaint that data provided directly or indirectly by the LICENSEE to any person are inaccurate, NCAOC will first investigate to verify the following:

- 1) The LICENSEE's data referenced by the complainant are, in fact, inaccurate; and
- 2) The LICENSEE receives Data from NCAOC.

2.5.3.2 Upon such verification, NCAOC will notify one of the LICENSEE's contact persons of the inaccuracy.

- 2.5.3.3 Upon such notification, if it is the LICENSEE's first provision of inaccurate data, the LICENSEE will have a reasonable time to correct the inaccuracy.
- 2.5.3.4 When NCAOC is satisfied that the LICENSEE's records are accurate and the data that were the source of the complaint have been corrected, NCAOC will so notify the LICENSEE's contact person and the complainant of the correction. Pursuant to Subsection 2.5.2.4 above, the LICENSEE, to continue its access to NCAOC's Databases, will be required to provide a performance bond to secure payment of liquidated damages due upon a subsequent breach of its duty to provide accurate data.
- 2.5.3.5 Upon a subsequent report or complaint that data provided by the LICENSEE to any person are inaccurate, NCAOC will investigate and verify the inaccuracy as provided above. NCAOC will notify one of the LICENSEE's contact persons of the inaccuracy, as well as the LICENSEE's duty, if it is the second provision of inaccurate data, to pay liquidated damages in the amount set out in Attachment A, pursuant to Subsection 2.5.2.3 above. These liquidated damages are due and payable independent of the LICENSEE's corrective action, as explained in Subsection 2.5.2.3 above.
- 2.5.3.6 If the LICENSEE provides inaccurate data in two separate, unrelated cases, and both inaccuracies are verified as provided in Subsection 2.5.3.1, above, this Agreement will immediately terminate and will not be reinstated.
- 2.5.3.7 In order to allow NCAOC to conduct the investigation and verification provided for in this Article, as well as random security checks, the LICENSEE shall provide complete records from the LICENSEE's database(s) to NCAOC within five business days after receipt of a list of names or case numbers from NCAOC.
- 2.5.3.8 NCAOC is under no obligation to notify the LICENSEE of any complaint during the course of NCAOC's investigation or after its conclusion, should NCAOC determine that the LICENSEE's data are accurate, or that the source of the data was an entity other than NCAOC.
- 2.5.3.9 NCAOC is under no obligation to identify the specific data that are the source of a complaint, and may, in fact, be prohibited by law from doing so.

2.5.3.10 Any failure by the LICENSEE to comply with an instruction given by NCAOC pursuant to this section will result in immediate termination of this Agreement.

2.5.3.11 **BY INVESTIGATING, VERIFYING, AND CONFIRMING A CORRECTION AS PROVIDED IN THIS SECTION, NCAOC ASSUMES NO OBLIGATION TO THE LICENSEE WITH REGARD TO THE LICENSEE'S POTENTIAL LIABILITY TO A COMPLAINANT OR ANY OTHER PERSON AS A RESULT OF THE DISSEMINATION OF INACCURATE DATA UNDER INVESTIGATION.**

## 2.6 Payment Provisions

2.6.1 The LICENSEE will be billed monthly for NCAOC's Database access charges incurred within the billing period (a single calendar month). Payment is due within thirty (30) days of the date of the monthly bill. Checks must be made to the "N.C. Administrative Office of the Courts" and mailed to the following address:

N.C. Administrative Office of the Courts  
Financial Services Division – Accounts Receivable  
P.O. Box 2448  
Raleigh, NC 27602

2.6.2 If payment is not received within thirty (30) days of the date of the monthly bill, a late fee, as set out in Attachment A, will be assessed and is due and payable by the second day of the following month.

2.6.3 If any payment due under the terms of this Agreement becomes sixty (60) days in arrears, the NCAOC will immediately terminate this Agreement and disconnect the LICENSEE's access to the NCAOC's Databases. The LICENSEE may be permitted to reinstate this Agreement and access to NCAOC's Databases hereunder, but reinstatement is within the sole discretion of the NCAOC's Chief Financial Officer (CFO). In addition to any other condition that the CFO deems appropriate, reinstatement is dependent upon the LICENSEE's compliance with the terms of reinstatement set forth in Subsection 2.8.3 of this Agreement.

## 2.7 Term and Effective Date of Agreement

2.7.1 The term of this Agreement shall begin on the date of the last signature below and shall continue until terminated by either party pursuant to Section 2.8 of this Agreement.

2.7.2 For as long as the LICENSEE has access to any portion of the Databases licensed under the terms of this Agreement, the LICENSEE must comply with the terms of this Agreement.

## 2.8 Termination

2.8.1 Either party may terminate this Agreement without cause upon giving the other party thirty (30) days written notice of its intent to do so. If this Agreement is terminated without cause, the LICENSEE shall be liable for payment only for usage charges and for other services rendered, if any, prior to and on the effective date of termination.

2.8.2 The filing of bankruptcy, whether voluntary or involuntary, shall immediately terminate the Agreement. The LICENSEE shall notify the NCAOC immediately upon the filing or commencement of any action alleging insolvency of the LICENSEE.

2.8.3 Should the LICENSEE breach a material provision of this Agreement, the NCAOC shall promptly notify the LICENSEE of the breach, and the LICENSEE shall have ten (10) business days from the receipt of the notice to remedy the breach. In the event the LICENSEE fails to remedy the breach within ten (10) business days, and no extension of time to remedy the breach has been granted, the NCAOC may immediately terminate this Agreement for default and disconnect the LICENSEE's access to the NCAOC's Databases. PROVIDED, that if the LICENSEE's default is nonpayment of an invoice within sixty (60) days, the NCAOC may terminate the LICENSEE's access to the NCAOC's Databases without further notice and may send the account to collection. Reinstatement of the Agreement will be subject to payment of any arrearages and the reinstatement fee then in effect (see Attachment A).

2.8.4 The NCAOC reserves the right to deny access permanently to the LICENSEE when terminated for default, as defined in Subsection 2.8.3 above, and for inaccurate provision of data, pursuant to Subsection 2.5.3.6.

2.8.5 This Agreement will terminate if the LICENSEE does not access the NCAOC's Databases for a contiguous period of twelve (12) months. Notwithstanding paragraph 2.8.1 of this Agreement, such termination shall occur immediately and without prior notice upon passage of twelve (12) months of inactivity. The NCAOC will send a post-termination notice to the LICENSEE at the most recent contact information provided in Attachment B. If this Agreement is terminated pursuant to this paragraph, the LICENSEE will not be permitted to reinstate access under this agreement. Any future access by the LICENSEE after such termination will be permitted only upon execution of a new licensing agreement and payment of all fees associated with such agreement's execution, including, but not limited to, the setup fee and fees for new user IDs.

2.8.6 The NCAOC may terminate this Agreement at any time for the convenience of the State.

## 2.9 Warranties

**EXCEPT AS SET FORTH HEREIN, NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE MADE BY THE NCAOC WITH RESPECT TO ELECTRONIC ACCESS TO THE NCAOC'S DATABASES OR FOR THE IMPLEMENTATION THEREOF.**

**2.9.1 THE NCAOC PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, FOR ANY COMPUTER PROGRAMS, ASSOCIATED MATERIALS, AND DATA PROVIDED HEREUNDER.**

**2.9.2 THE NCAOC PROVIDES NO WARRANTIES, EXPRESS OR IMPLIED, THAT THE DATA ACCESSED IS ACCURATE, CORRECT, OR COMPLETE.**

**2.9.3 THE NCAOC PROVIDES NO OTHER WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS SERVICE.**

## 2.10 Limitation of Liability – Access to NCAOC's Databases

2.10.1 The NCAOC shall not be liable for any demand or claim, regardless of form of action, for any damages arising from causes beyond the control and without the fault or negligence of the NCAOC.

2.10.2 The NCAOC shall not be liable for any demand or claim, regardless of form of action, for any damages resulting from the use by the LICENSEE of any computer programs, other materials, and Data provided under this Agreement.

2.10.3 The NCAOC shall not be liable for any demand or claim, regardless of form of action, for any damages arising from incorrect or incomplete Data accessed from this service. It is expressly understood by the parties that it is the LICENSEE's responsibility to verify Data obtained through access to the NCAOC's Databases with official information reposing at the court of record.

2.10.4 If the NCAOC is in a declared state of disaster recovery, the NCAOC shall not be liable for any demand or claim, regardless of form of action, for any damages arising from denial of access or inability to access NCAOC's Databases.

2.10.5 The NCAOC shall not be liable for any demand or claim, regardless of form of action, for any damages based upon alteration or modification made by the LICENSEE of any computer programs, other materials, or Data supplied hereunder, unless the NCAOC made, directed, or required such modification or alteration.

2.10.6 The NCAOC shall not be liable to the LICENSEE or any other party for any loss, including revenue; profits; time; goodwill; computer time; destruction, damage, or loss of data; or any other indirect, special, or consequential damage that may arise from the use, operation, or modification of the NCAOC's Databases.

## 2.11 Security

2.11.1 LICENSEE shall maintain up-to-date security patches, scans, and firewalls and utilize all industry best practices to maintain security of LICENSEE's system. The LICENSEE shall allow the NCAOC, in the NCAOC's sole discretion, and at any time, to perform a vulnerability scan on the LICENSEE's communications transport method to ensure that "transient trusts," including but not limited to, backdoors, cyber-threats, vulnerabilities, and unauthorized access, are prevented, and that due diligence is being performed from an information security best practices perspective. FOR THE AVOIDANCE OF DOUBT, LICENSEE shall not create an unsecure entry into the NCAOC network.

2.11.2 If anyone gains unauthorized access to NCAOC data through LICENSEE's system ("Unauthorized Access"), such Unauthorized Access will be a material breach of this Agreement and will be grounds for termination in accordance with Section 2.8.3.

2.11.3 LICENSEE shall notify the NCAOC immediately if there is Unauthorized Access. If there is Unauthorized Access, the NCAOC shall immediately terminate LICENSEE's access to NCAOC data. The NCAOC will order an immediate forensic examination of the reported or discovered incident; LICENSEE shall be responsible for the cost of the forensic examination. LICENSEE shall also be responsible for any damages, including, but not limited to, damage to reputation and physical and logical damage to NCAOC systems and data, caused to the NCAOC by any Unauthorized Access.

### 3. GENERAL TERMS AND CONDITIONS

#### 3.1 Assignment

This Agreement and the LICENSEE's rights under this license are personal to it and may not be transferred, assigned, delegated, or sold for any purpose whatsoever without the prior written consent of the NCAOC.

#### 3.2 Counterparts

This Agreement is to be executed in duplicate originals and each duplicate shall be deemed an original copy of the Agreement for all purposes.

#### 3.3 Entire Agreement

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous discussions and agreements. Understandings, representations, or warranties not contained in this Agreement or a written amendment hereto shall not be binding on either party.

#### 3.4 Governing Law and Situs

This Agreement shall be governed in all respects by the law and statutes of the State of North Carolina, and venue for any action hereunder shall be in the courts of Wake County.

#### 3.5 Headings

The headings used herein are for reference and convenience only and shall not enter into the interpretation hereof unless otherwise specified herein.

#### 3.6 Conflict of Authority

If any provision of this Agreement shall be deemed in conflict with any statute or rule of law, such provision shall be deemed modified to conform to said statute or rule of law.

#### 3.7 Independent Status of Parties

The parties hereto, in the performance of this Agreement, will be acting in their individual capacities and not as agents, employees, partners, joint venturers, or associates of one another.

The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

### 3.8 Limitation of Liability – General

Neither party shall be liable for personal injury or damage to tangible property except that proximately caused by each party's respective fault or gross negligence.

### 3.9 Modifications, Amendments, and Waivers

3.9.1 No modification, amendment, or alteration of any of the terms and conditions of this Agreement shall be effective unless it is in writing and signed by both parties, with the exception of periodic fee changes specified in Attachment A and changes in contact information, contact persons, or password administrators as set out in Section 3.11 and contained in Attachment B to this Agreement.

3.9.2 No term or condition of this Agreement shall be held to be waived, modified, or deleted, and no breach excused, except by a written instrument signed by the parties hereto. Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach.

3.9.3 The failure of either party to enforce any term of this Agreement on one or more occasions will not constitute a waiver of the rights or remedies of either party to enforce such term or any other term of this Agreement on any other occasion.

### 3.10 Non-exclusive Agreement

This Agreement is non-exclusive. During the term of this Agreement, the NCAOC reserves the right to enter into agreements with other parties as it deems fit.

### 3.11 Contact Information and Notices

3.11.1 The LICENSEE shall provide all contact information requested in Attachment B to this Agreement.

3.11.2 The LICENSEE shall designate up to two (2) contact persons in Attachment B. At no time shall there be more than two contact persons for the LICENSEE.

3.11.3 The two contact persons are the only individuals, in addition to the signatory(ies) to this Agreement (if different), permitted to contact the NCAOC on the LICENSEE's behalf for any reason other than reset of a password for the user ID of a password administrator, as provided in Subsection 3.11.5. At least one (1) of these contact people shall be available to the NCAOC on weekdays from 8:00 a.m. until 5:00 p.m., Eastern Time, with the exception of legal holidays on which North



Carolina state government offices are not open. The LICENSEE expressly represents that any person designated as a contact person is its legal agent with full authority to act individually on the LICENSEE's behalf for performance and fulfillment of the LICENSEE's obligations under this Agreement, including, but not limited to, notifying the NCAOC of changes to the LICENSEE's contact information, contact persons, and password administrators; receiving any and all notices from the NCAOC under this Agreement; and responding to the NCAOC's requests for information or action from the LICENSEE.

- 3.11.4 The LICENSEE shall designate up to two (2) password administrators in Attachment B. At no time shall there be more than two (2) password administrators for the LICENSEE.
- 3.11.5 The LICENSEE's password administrators are responsible for resetting revoked or expired passwords for all user IDs provided to the LICENSEE pursuant to this Agreement. The NCAOC Help Desk will reset passwords for no user ID provided to the LICENSEE pursuant to this Agreement, except for the two user IDs assigned to the individual password administrators, and then only upon confirmation satisfactory to the NCAOC that the individual requesting the reset of a password for a specific user ID is the password administrator to whom that user ID was assigned by the NCAOC. The LICENSEE acknowledges and agrees that it is within the sole discretion of the NCAOC to delay the reset of the password for a password administrator's user ID for a reasonable time until NCAOC Help Desk staff or the Remote Public Access staff is satisfied that a request for such reset has originated with the individual password administrator to whom the user ID in question was assigned by the NCAOC. This verification process may include a demand for a written request from a contact person or signatory to this Agreement for reset of the password in question.
- 3.11.6 An individual may be both a contact person and a password administrator for the LICENSEE, but such individual must be designated separately as both in Attachment B, and the LICENSEE must provide all information requested for that individual in both roles.
- 3.11.7 Any change to the LICENSEE's contact information, contact person information, or password administrator information shall be communicated to the NCAOC by any means of communication listed in Subsection 3.11.10.
- 3.11.8 Any notice or other communication from the NCAOC to the LICENSEE shall be deemed sufficient if sent to either contact person or to any signatory to this Agreement using the contact information provided in

Attachment B, and via any means of communication listed in Subsection 3.11.10.

- 3.11.9 Any notice or other communication from the LICENSEE to the NCAOC shall be deemed sufficient if sent to the NCAOC using the contact information below.

Mail: N.C. Administrative Office of the Courts  
Technology Services Division  
Attn: Remote Public Access  
P.O. Box 2448  
Raleigh, NC 27602

Phone: (919) 890-2220

Fax: (919) 890-1982

Email: rpa@nccourts.org

- 3.11.10 Unless stated otherwise in this Agreement, all notices between the parties shall be in writing, and sent by mail, facsimile, or electronic transmission.
- 3.11.11 The LICENSEE expressly acknowledges and agrees that the NCAOC may rely upon any email transmission as an authorized communication from the LICENSEE if the email purports to originate from an email address provided for a contact person in Attachment B. The NCAOC is under no obligation to take any action to verify the authenticity of email communications from the LICENSEE, including, but not limited to, investigation of the use of a contact person's email account by some other individual or the "spoofing" of a contact person's email address such that it appears as the sender of a message not actually originating from that address. The LICENSEE further agrees that the NCAOC may, in its sole discretion, ignore any email communication purporting to be from the LICENSEE or any agent of the LICENSEE, without investigation or notification to the LICENSEE, if said communication originates from an email address other than one provided to the NCAOC in Attachment B.
- 3.11.12 As a convenience to the NCAOC and members of the public, the NCAOC lists on its website ([www.nccourts.org](http://www.nccourts.org)) certain licensees who provide criminal record checks. The LICENSEE will be listed on the NCAOC website only if the LICENSEE requests listing on its most recently updated copy of Attachment B to this Agreement. The LICENSEE acknowledges that the content of the LICENSEE's listing is within the sole discretion of the NCAOC, and that the NCAOC may discontinue the listing at any time for any reason. The LICENSEE's listing will be removed from the website if the LICENSEE does not access the NCAOC's Databases for a

contiguous period of three (3) months. Upon termination of this Agreement for any reason, the LICENSEE's listing will be removed from the website.

### 3.12 Hold harmless

The LICENSEE hereby agrees to defend, indemnify, and hold the court officials, the NCAOC, its employees, and the State of North Carolina harmless from all loss, risk of loss, and damages (including expenses, costs, and attorney fees) sustained or incurred by them because of or by reason of any claims, demands, suits, actions, judgments, or executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of, or relating in any manner to any use made by LICENSEE of the NCAOC's Databases.

### 3.13 Severability

If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications that can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

### 3.14 Survival

The provisions of Sections 2.3.1, 2.3.2, 2.3.2.7, 2.3.2.8, 2.3.2.11, 2.3.4, 2.5.1, 2.5.2.3, 2.5.2.4, 2.5.2.6, 2.5.3.7, 2.5.3.9, 2.5.3.11, 2.8.1, 2.8.3, 2.8.4, 2.8.5, 2.9, 2.10, 2.11.1, 2.11.2, 2.11.3, 3.4, 3.8, 3.11.11, 3.12, and 3.14 of this Agreement shall survive the termination of this Agreement.

### 3.15 Other Laws

To the extent the Data obtained under this Agreement are subject to other laws, statutes, court rules, administrative rules, or regulations, either federal or state, that govern the use of the Data, the provisions of those other laws, statutes, court rules, administrative rules, or regulations, either federal or state, shall apply to the Data.

### 3.16 Availability of State Funds

All payments made to the NCAOC by the LICENSEE are deposited by the NCAOC in the Court Information Technology Fund. The performance of the NCAOC's duties under this Agreement is subject to the availability of the moneys in that Fund, or of other State funds, to enable it to perform those duties.

### 3.17 Legal Authority

If at any time for any reason the NCAOC concludes, or it is determined by a court of competent jurisdiction, that the NCAOC was without authority to enter into or

continue to perform pursuant to this Agreement, this Agreement will terminate without further obligation or liability to the LICENSEE by the State of North Carolina, the NCAOC, or any official, officer, employee, or agent of either.

4. SIGNATURES

The parties hereto, having read this Agreement in its entirety, do agree thereto in each and every particular, and further state that they are authorized to execute this Agreement and bind their respective agencies or companies.

**THE NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS**

BY: \_\_\_\_\_  
Bud Jennings or designee  
Chief Financial Officer

Date: \_\_\_\_\_

**NAME OF CORPORATION**

BY: \_\_\_\_\_ (Signature of president or vice-president)  
\_\_\_\_\_  
(Print full name here)  
\_\_\_\_\_  
(Title)

WITNESS:

BY: \_\_\_\_\_ (Signature of secretary or assistant secretary)  
\_\_\_\_\_  
(Print full name here)  
\_\_\_\_\_  
(Title)

Date: \_\_\_\_\_

## Attachment A

### Online Access Fees

Effective January 1, 2015

<i><b>Cost Item</b></i>	<i><b>Cost/Rate</b></i>
Setup Fee (non-refundable)*†	\$495
Additional User Identifiers (ID)	\$70/ID
Reinstatement of Deleted User ID	\$70/ID
Access Fees	\$.21/transaction
Late Payment Fee (for bill due 30 days or more)	\$75/late payment
Reinstatement upon Termination†	\$495
Change in Name	No charge
Change in Name and Tax ID	\$100
Change in Ownership‡	\$495
<b><i>Performance Bond</i></b>	
Liquidated Damages†	\$5,000
Cash Bond† or Corporate Surety Bond	\$5,000

\*Includes two user IDs and two admin IDs

†Requires payment with a cashier's check

‡Requires a new licensing agreement and payment with a cashier's check

## Attachment B

<b><i>Instructions:</i></b> Use this form to provide or update the LICENSEE's contact information and to request additional user identifiers (IDs) for access to the NCAOC's online systems. Type or print clearly. All fields are required. If you need assistance with this form, contact the NCAOC Remote Public Access Coordinator at (919) 890-2220.		
<b>Licensee Contact Information:</b> <i>(See Subsection 3.11.1 of Licensing Agreement.)</i>		
Licensee Name:		
Mailing Address:		
Phone #:	Email:	
Fax #:	Licensee's Website URL:	
Federal Tax ID#:	Include Company on NCAOC Website? <input type="checkbox"/> YES <input type="checkbox"/> NO	
<b>Contact Person Information:</b> <i>(See Subsection 3.11.2 of Licensing Agreement.)</i>		
	<b>Contact Person #1</b>	<b>Contact Person #2</b>
Contact Full Name:		
Mailing Address:		
Phone #:		
Fax #:		
Email Address:		
Signature:		
<b>Password Administrator Information:</b> <i>(See Subsection 3.11.4 of Licensing Agreement.)</i>		
	<b>Password Admin #1</b>	<b>Password Admin #2</b>
Admin Full Name:		
Mother's Maiden Name:		
Social Security Number:	(Last 4 digits <b>only</b> ):	(Last 4 digits <b>only</b> ):
Phone #:		
Fax #:		
Email Address:		
<b>Additional User IDs:</b> <i>Two (2) generic User IDs are included in the setup fee. Additional user IDs requested are subject to the current Additional User Identifier fee in Attachment A of this Agreement.</i>		
Number of additional generic User IDs requested:		
<b>Signature:</b> This Attachment will be honored only if signed by a signatory to the LICENSEE's "Licensing Agreement – Online Access" or by a person currently designated pursuant to Section 3.11 of that Agreement as a contact person for the LICENSEE.		
Full Name (Type or Print)	Signature	Date
<b>For NCAOC Internal Use Only:</b>		
Password Admin #1 ID:		
Password Admin #2 ID:		
User ID #1:		
User ID #2:		
Additional User IDs:		
Systems Authorized:	<input type="checkbox"/> Civil (VCAP) <input type="checkbox"/> Criminal (ACIS)	
NCAOC Security Administrator Signature	Date Request Completed	

## Attachment C

Please provide a list of all websites, subsidiaries, entities, aliases, or “doing business as” names that will have access to or provide any information obtained from the NCAOC. Pursuant to Subsection 2.3.2.12 of your Licensing Agreement with the NCAOC, you are required to provide this information and keep it up to date. This form must be returned with your Licensing Agreement before access to NCAOC systems is granted. Failure to keep the information up to date may result in termination of your access to NCAOC systems, as outlined in Subsection 2.8.3 of your Licensing Agreement.

<b>Websites' URLs</b>	<b>Subsidiaries/Entities/Doing Business As Names/ Other Aliases</b>