

## **AGREEMENT**

This Agreement made and entered into this \_\_\_\_ day of **Month, year** by and between Sedgwick County, Kansas, hereinafter referred to as "County", and **business name** hereinafter referred to as "Subscriber".

WHEREAS, County maintains certain electronic data in computer databases which is available to the general public under certain circumstances; and

WHEREAS, Subscriber desires to have on-line access to the said electronic data through the use of the Internet or telephone lines and modems, and

WHEREAS, the Board of County Commissioners of Sedgwick County, Kansas, has delegated the authority to sign these agreements on behalf of the County to the Director of Information Technology Services, by Resolution No. 2-2010,

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

### **SECTION 1: STATEMENT OF PURPOSE.**

The purpose of this Agreement is to define circumstances, responsibilities, and compensation relating to the provision to Subscriber of on-line computer access to certain data records maintained in electronic form by County.

### **SECTION 2: TERM OF AGREEMENT.**

This Agreement shall be in full force and effect for a period of one year after the date of execution hereof. Thereafter, this Agreement shall continue for successive monthly periods upon the same terms, provisions and conditions as provided herein excepting that at either party's option, this Agreement may be terminated at any time after the original term hereof upon thirty (30) days advance written notice to the other party.

### **SECTION 3: DEFINITION OF TERMS.**

- 1) Data records - facts maintained in electronic form for communication or processing.
- 2) Client Department - a County department or agency serviced by Sedgwick County Information Technology Services whose data files are available to external agencies pursuant to Sedgwick County Resolution #312-1988 and as amended.

- 3) Authorized on-line access - the process by which an individual who has obtained proper clearances is permitted to obtain or change data records from a Client Department using a computer terminal.

**SECTION 4: COUNTY RESPONSIBILITIES.**

- 1) Client Departments will:
  - a. when requested, help in interpreting meaning of data; and
  - b. have final control and responsibility for security authorization of individuals and desktops in granting access to their data.
- 2) Sedgwick County Information Technology Services will:
  - a. process requests from Subscriber for individuals to have operator accounts created;
  - b. provide authorized on-line computer access during normal County business hours, subject to interruption of service pursuant to Section 10;
  - c. provide acceptable response time within limitations of budget constraints;
  - d. provide reasonable levels of problem determination support to help isolate problems when requested; and
  - e. prepare and submit to Subscriber a monthly statement accurately reflecting usage and fees associated with providing access.

**SECTION 5: SUBSCRIBER RESPONSIBILITIES.**

- 1) Subscriber agrees to:
  - a. recognize that County takes the position that authorized on-line access is a privilege not a right, and that Client Departments may revoke access to an individual, group of individuals, or Subscriber at any time.
  - b. recognize that authorized on-line access provides no right to possession or ownership of data records at any time;
  - c. recognize that Sedgwick County Information Technology Services stores information for some client departments and agencies which County may not have final authority to disclose and that it is Subscriber's responsibility to notify each department or agency to secure proper access of information;
  - d. take all reasonable precaution to protect against unauthorized access to County's data records;

- e. provide all equipment, software, and supplies necessary at its location to establish communications using communications protocols defined by Sedgwick County Information Technology Services;
- f. promptly notify Sedgwick County Information Technology Services when an individual with authorized access leaves its employment so operator accounts under their control may be deleted or changed;
- g. abide by County's reasonable regulations which may now be in force or effect or which may in the future become effective;
- h. recognize there is no express or implied ownership of County equipment by the payment of any fee or charge to County; and
- i. not sell, give or receive for the purpose of selling or offering for sale any property or service to persons listed therein any list of names and addresses contained in the data records accessed or derived from the data records accessed, as prohibited by K.S.A. 45-230.

By executing this agreement, the Subscriber certifies the Subscriber does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.

**SECTION 6: BILLING AND PAYMENT.**

- 1) Sedgwick County Information Technology Services will submit to Subscriber a statement of usage and associated costs of providing access pursuant to the County's online subscriber fee schedule.
- 2) Rates shall be set by County for various services and may be adjusted from time to time.
- 3) Subscriber will pay all properly submitted statements within thirty (30) days of the date of the statement.

**SECTION 7: ILLEGAL PROVISIONS.**

If any provision of this Agreement shall be declared to be illegal, void or unenforceable by a court of competent jurisdiction, the other provisions shall not be affected but shall remain in full force and effect.

**SECTION 8: TERMINATION.**

At County's option, this Agreement may be terminated immediately upon the occurrence of any of the following:

- 1) Subscriber's non-payment in violation of Section 6 hereof;
- 2) Subscriber's violation of K.S.A. 21-5839 or K.S.A. 45-230, as amended;
- 3) Subscriber's failure to indemnify County pursuant to Section 9 hereof;
- 4) Subscriber's allowance of unauthorized access prohibited hereby;
- 5) Subscriber's material breach of any term, provision or condition of this Agreement; and
- 6) County's determination that resources devoted to Subscriber are required by County for its internal operation.

At either party's option, this Agreement may be terminated at any time after the original term hereof upon thirty (30) days written notice to the other party.

**SECTION 9: INDEMNIFICATION AND HOLD HARMLESS PROVISIONS.**

Subscriber hereby releases, indemnifies and holds harmless County, its officers, agents, employees and departments of liability for any and all damages resulting from any act or omission on part of the subscriber, incorrect or misinterpretation of data or any other liability from information obtained from data records pursuant hereto. Subscriber further agrees to and does hereby indemnify and save County harmless from any and all liability as a result of Subscriber's willful violation of any law or regulation pertaining hereto with particular reference to provisions of K.S.A. 21-5839 and K.S.A. 45-230, as amended.

**SECTION 10: INTERRUPTION OF SERVICE.**

County shall use its best efforts to provide adequate and uninterrupted service under the terms hereof. However, County shall not be liable for interruption of service when the same shall be due to circumstances beyond the control of County, its agents, servants, or employees, including but not limited to equipment malfunction and periodic maintenance of County's computer system.

**SECTION 11: ASSIGNMENT.**

This Agreement may not be assigned by Subscriber without the prior written consent of County and any such assignment of this Agreement shall be null and void.

**SECTION 12: NOTICES.**

All notices shall be in writing and shall be directed to the parties hereto as shown below:

To County: CIO, Information Technology Services  
Munger Building - First Floor  
538 N. Main  
Wichita, KS 67203

To Subscriber: Contact Name  
Business Name  
Street Address  
City, State, Zip Code

**SECTION 13: CONSTRUCTION.**

This Agreement shall be construed in accordance with the laws of the State of Kansas.

**SECTION 14: PARAGRAPH HEADINGS.**

The paragraph headings are inserted in this Agreement for convenience only and shall not be used in interpreting this Agreement.

**SECTION 15: TOTAL AGREEMENT.**

This Agreement constitutes the complete and exclusive statement of the agreement between the parties hereto. No amendment, waiver or alteration of this Agreement shall be effective unless signed by and authorized officer of each of the parties hereto. Neither County nor Subscriber shall be bound by any oral agreement or representation.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

DIRECTOR OF INFORMATION  
TECHNOLOGY SERVICES  
OF SEDGWICK COUNTY, KANSAS

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APPROVED AS TO FORM:

Business Name

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Assistant County Counselor

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Name  
Title

ATTEST:

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Kelly B. Arnold  
County Clerk