

**Application for Access to the City of Portsmouth Clerk of Circuit Court  
Officer of the Court Remote Access Site (OCRA)  
Subscriber Agreement**

It is the intent of both parties to participate in a secure remote access program. This Agreement (“Agreement”) by and between the City of Portsmouth Clerk of Circuit Court’s Office (hereinafter “Clerk”) and \_\_\_\_\_, (hereinafter “Subscriber”).

**Terms and Conditions of Agreement**

1. Term of the Agreement: The term of this agreement shall be one year and shall commence on the effective date and continue until terminated as provided herein.
2. Method of Access: The subscriber will be provided with a single username and password. This username and password will be entered on the first page of the search website.
3. Subscriber Option: The Clerk’s office provides one option for subscribers. The subscriber will be granted access to all of the digital data made available on the site. Currently, the data provided is listed in Attachment A to this document (“Imaging Data Available on the City of Portsmouth Clerk of Circuit Court Officer of the Court Remote Access Site”). The Clerk reserves the right to modify the data made available on the site.
4. Days and Hours of Operation: The Subscriber shall be able to access the on-line data on the site seven days a week and twenty four hours per day, with the following exceptions:
  - The site may be unavailable for normal maintenance
  - The site may be unavailable for remedial maintenance
  - The site may be unavailable due to network or power failures beyond the control of the Clerk’s office
  - The site may be temporarily unavailable to address security concerns
5. Fees and Billing: The fee for Subscriber access under this agreement is \$200.00 (authorized officer) and \$25.00 (each additional authorized support staff user) per year and shall be paid in one (1) installment. The payment is due at the time of application. The Subscriber’s username and password shall expire at the end of the paid period, unless the Subscriber pays for the next period. It is the Subscriber’s responsibility to pay for the next period. The Clerk’s office will not send renewal notices to Subscribers. The Clerk reserves the right to change the fees for providing access. Any change in fees will not affect any current subscribers during the term of the agreement. The new fees will be in effect for new subscribers and existing subscribers upon renewal for the next one-year term.
6. Clerk May Waive Fee for City of Portsmouth Users: The Clerk in her discretion may waive the subscriber fees discussed above for users in other City of Portsmouth governmental offices. If these fees are waived, the Clerk may choose at some future date to require all users to pay the current fees, including any and all City users. These City users will be given thirty (30) days’ notice of the Clerk’s decision to charge the fee. In addition, Virginia law may at some point require that all users be charged a fee for access.
7. Prohibition of Providing Copies of the Data: Access to secure remote access site by City users is at the discretion of the Clerk. Access may be terminated if representatives of the office provide copies of the images or indexing data to any persons. This includes all paper copies and digital copies. Current Virginia law has strict rules regarding the dissemination of the Clerk’s data, and these prohibitions are required to comply with these laws. Any FOIA or other open records requests for this data must be forwarded to the Clerk. Other City users do not have the legal authority to respond to these requests for the Clerk’s Data
8. Services:
  - The Clerk’s office or its agents will provide the Subscriber with inquiry only access to an on-line data base system as listed on Attachment A.
  - The Clerk’s office, its employees and/or agents will assume responsibility for providing the Subscriber with limited consultation, via e-mail, on specific problems that arise in the use of the system. The Clerk’s office does not guarantee consultation results nor warrant or represent that all errors or problems will be corrected.

**Initials** \_\_\_\_\_

9. Subscriber's Obligations:

- It is the responsibility of the Subscriber to purchase the computer hardware and software and/or make modifications to their existing equipment, which are necessary to effect access to the system.
- The Subscriber is responsible for ensuring that its location and/or computers are not used by unauthorized personnel to access information from the system. Unauthorized personnel, for the purpose of the Agreement, shall be any person or entity other than the Subscriber or its employees.
- Information accessed from the system is for the use of the Subscriber in the ordinary course of its business.
- The Subscriber is responsible for ensuring that the use of the system by its employees is conducted in a proper and legal manner. If the Subscriber or one of its employees is convicted of a crime, including, but not limited to, a violation of the Virginia Computer Crimes Act (§18.2-152.1 of the Code of Virginia), arising out of the use of the system, such conviction shall constitute a material breach of this Agreement, and the Clerk's office shall have the right to terminate this Agreement immediately. Nothing contained herein shall be construed as prohibiting the Clerk's office from pursuing any other remedy available to it for such breach.

10. Limitation of Liability:

- The Subscriber herein relieves and release the Clerk's office, its employees, officials, volunteers or agents from liability for any and all damages, claims, losses or expenses including attorney's fees resulting from interrupted service of any kind, except for damage caused by gross negligence or willful misconduct.
- The Subscriber herein hereby relieves releases, indemnifies and holds harmless the Clerk's office, its officials, employee's volunteers and agents for any liability for any and all damages claims, losses or expenses including attorney's fees, resulting from incorrect data or any other misinformation accessed from the system.
- The Subscriber agrees that the Clerk's office, its officials, employees, volunteers or agents shall not be liable for any negligence or lost profits resulting from any claim or demand against the Subscriber by any other party.
- In no event will the Clerk's office, its officials, employees or its agents be liable for consequential damages even if the Clerk's office 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.
- The information or data accessed by the Subscriber is not the official governmental record required by law. In order to assure accuracy of the data, the Subscriber should consult the official governmental record, which resides in the Clerk's office.
- Nothing in this Agreement shall be construed as waiving the sovereign or governmental immunity of the Clerk of the Circuit Court or its officials, employees, volunteers, or agents.

11. **WARRANTIES: THE CLERK'S OFFICE, ITS OFFICIALS, EMPLOYEES, VOLUNTEERS AND AGENTS NEITHER EXPRESS, IMPLY NOR WARRANT THAT THE INFORMATION OR DATA ACCESSED BY THE SUBSCRIBER IS ACCURATE OR CORRECT. THERE ARE NO EXPRESSED OR IMPLIED WARRANTIES IN CONNECTION WITH THIS SERVICE.**

12. Assignment: The Subscriber agrees not to assign any right or interest in the Agreement. Any attempt by the Subscriber to transfer by any means, any of the rights, duties or obligations of this Agreement shall render this Agreement null and void.

13. Governing law/Venue: This Agreement and/or any dispute arising therefrom shall in all respects be governed by and interpreted in accordance with the applicable law of the commonwealth of Virginia, regardless of where actually accepted or delivered. This Agreement shall be deemed to have been accepted and delivered by the parties in the Commonwealth of Virginia. Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in the City of Portsmouth.

14. 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.

15. Attachment: The attachments referred to in the body of this Agreement are an integral part of this Agreement and reference to this Agreement shall be deemed to include all the attachments. All approved applications shall become a part of this Agreement as well.
16. Notice: Any notice or written communications 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 or registered mail.
17. Termination:
- This Agreement may be terminated by the Clerk without cause. If so terminated, the Clerk may refund a pro rata share of the Subscriber's fee.
  - This Agreement may be terminated by the Clerk's office or its agents for Subscriber's failure to comply with the terms of this Agreement, failure to pay fees, or breach of the Agreement. No refund of fees will be given if terminated for this reason.
  - This Agreement shall be terminated immediately if funding for this system is withdrawn for any reason. Subscriber acknowledges that the Clerk's office has no control over the amount of appropriations, if any, which may be provided by any governmental entity for the continuation of this system and the services under this Agreement.
  - This Agreement may be terminated as otherwise specified.
  - The Subscriber has the right to terminate the agreement upon notification from the Clerk that a fee may be charged for the service.
18. 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.

IN WITNESS WHEREOF. The parties hereto have executed this Agreement as of the date below.

Subscriber

Circuit Court Clerk's Office

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or typed name

\_\_\_\_\_  
Printed or typed name

\_\_\_\_\_  
Title (if Business Subscriber)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name  
(if Business Subscriber)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Initials** \_\_\_\_\_

## **Attachment A**

### **Imaging Data Available on the City of Portsmouth Clerk of Circuit Court Officer of the Court Remote Access Site**

Criminal - Case Management System Images:

November 2008 – current

Civil – Case Management System Images:

November 2008 – current