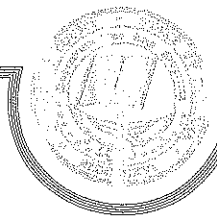
SUPREME COURT



OF INDIANA

DIVISION OF
STATE COURT ADMINISTRATION

LORETTA H. RUSH, CHIEF JUSTICE

LILIA G. JUDSON, EXECUTIVE DIRECTOR
DAVID J. REMONDINI, CHIEF DEPUTY EXECUTIVE DIRECTOR

30 SOUTH MERIDIAN STREET, SUITE 500
INDIANAPOLIS, IN 46204-3568
317.232.2542
317.233.6586 FAX
COURTS.IN.GOV

December 9, 2014

Mr. Terry Neal
President, Data Diver Technologies, LLC
7135 South Harl Avenue
Tempe, AZ 85283

Re: 2015 Bulk Data Renewal

Dear Mr. Neal

Your request, on behalf of Data Diver Technologies, LLC to obtain bulk distribution of non-confidential criminal and traffic court records from all Indiana trial courts has been renewed by the Division of State Court Administration pursuant to Indiana Administrative Rule 9(F) subject to the terms of this letter, the User Agreement for Bulk Distribution of Data or Compiled Information executed in 2013 and the approval letters we sent to you on February 11, 2013 and January 16, 2014. Copies of these documents are enclosed. The renewal will expire on January 31, 2016.

Enclosed is a distribution receipt form (form TCM-AR9(F)-3), that must be completed and returned to this office within thirty (30) days of receiving bulk distribution of court records or compiled information from counties not using the Odyssey Case Management System.

If you have any questions, please contact me at richard.payne@courts.IN.gov or (317) 232-2542.

Yours truly,

Richard T. Payne
Staff Attorney
Trial Court Management

Enclosures: User Agreement, Form TCM-AR(F)-1
Approval letter of February 13, 2013 and renewal letter of January 16, 2014
Distribution Receipt

Indiana Supreme Court
Division of State Court Administration

DISTRIBUTION RECEIPT FORM FOR BULK DISTRIBUTION OF DATA OR COMPILED INFORMATION

This form is to be filed with the Division of State Court Administration within thirty (30) days of receipt of bulk distribution of court records.

Identity of Requestor:
Address:

Telephone:
E-Mail:

Bulk Data Requested (i.e. docket information, court records, record of judgments and orders):

Date Received (if the distribution shall be continuous, indicate the first date the data was distributed):

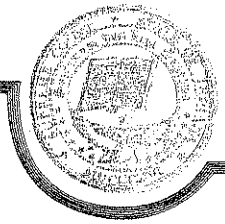
Format of distributed data (i.e. electronic feed, paper copies, et cetera):

Expenses related to receipt of data distribution (indicate the amount paid for distribution of data):

$ _____ total _____ monthly _____ annual

Comments:

SUPREME COURT



OF INDIANA

DIVISION OF
STATE COURT ADMINISTRATION

BRENT E. DICKSON, CHIEF JUSTICE

LILIA G. JUDSON, EXECUTIVE DIRECTOR
DAVID J. REMONDINI, CHIEF DEPUTY EXECUTIVE DIRECTOR

30 SOUTH MERIDIAN STREET, SUITE 500
INDIANAPOLIS, IN 46204-3568
317.232.2542
317.233.6586 FAX
COURTS.IN.GOV

February 11, 2013

Terry Neal
President and CEO
Data Diver Technologies
7135 S. Harl Avenue
Tempe, AZ 85283

Dear Mr. Neal:

Your request, on behalf of Data Diver Technologies, to obtain bulk distribution of non-confidential court records from all Indiana trial courts has been approved by the Division of State Court Administration pursuant to Indiana Administrative Rule 9(F), subject to the terms of this letter and the executed User Agreement for Bulk Distribution of Data or Compiled Information, (Form TCM-AR9(F)-1).

As explained in the User Agreement, the execution of the agreement and approval by the Division do not create any mandatory obligation on the part of any court or clerk to provide bulk distribution of court records or compiled information. You will need to contact the clerk from all counties not using the Odyssey system to seek distribution of this data. Except as explained in the following two paragraphs, it is up to each court to determine whether or not to provide bulk distribution of its records.

Indiana Administrative Rule 9(F)(2) places authority in the Indiana Supreme Court with respect to records from multiple courts such as those maintained in the Odyssey data repository. By Order dated September 13, 2011, *In the Matter of Bulk Distribution of and Remote Access to Court Records in Electronic Form,* Case No. 94S00-1109-MS-552, the Indiana Supreme Court authorizes bulk distribution of Odyssey records that are not excluded from public access by Administrative Rule 9(G) or (H), and authorizes the Division to review written requests for bulk distribution of Odyssey records and, if appropriate, approve such requests.

You are approved to receive bulk distribution of Odyssey records and the Division will provide bulk distribution of such records to you, subject to the following additional conditions: (1) You must make arrangements for payment for the records in accordance with Administrative Rule 9 and the Supreme Court's Order of September 13, 2011; (2) Your approval is subject to the executed User Agreement for the Use of Bulk Data from Indiana Odyssey Case Management System (Form TCM-AR9(F)-7), and (3) You are prohibited from providing bulk distribution of Odyssey records to any third party.

An executed copy of your user agreement, Form TCM-AR9(F)-1, is enclosed. The agreement will expire on January 31, 2014. Also enclosed is an executed copy of your User Agreement for the Use of Bulk Data from Indiana Odyssey Case Management System (Form TCM-AR9(F)-7) and a distribution receipt form(Form TCM-AR9(F)-3), that must be completed and returned to this office within thirty (30) days of receiving bulk distribution of court records or compiled information from court records. However, you need not file Form TCM-AR9(F)-3 for Odyssey records.

If you have any questions, please contact me at tracy.beechy-nufer@courts.IN.gov or (317) 232-2542 or staff attorney Jeff Wiese at jeffrey.wiese@courts.IN.gov or (317) 234-1873.

Sincerely,

Tracy R. Beechy-Nufer
Director of Trial Court Management

Enclosures: User Agreement, Form TCM-AR(F)-1
Odyssey User Agreement, Form TCM-AR9(F)-3
Distribution Receipt

Indiana Supreme Court
Division of State Court Administration

USER AGREEMENT FOR BULK DISTRIBUTION OF DATA OR COMPILED INFORMATION NOT EXCLUDED FROM PUBLIC ACCESS UNDER ADMINISTRATIVE RULE 9

The Indiana Supreme Court through its Division of State Court Administration ("Division") and **Data Diver Technologies** ("Requesting Party") hereby enter into this User Agreement for Bulk Distribution of Data or Compiled Information ("Agreement") for the purpose of establishing roles and responsibilities associated with the dissemination and use of Indiana court information pursuant to the provisions of Administrative Rule 9 of the Indiana Rules of Court ("Rule 9").

Recitals

A. Under Administrative Rule 9(F)(2), the Division is responsible for processing all requests for bulk distribution of Data or Compiled Information by Indiana Courts.
B. The Division reviews each request for bulk distribution to insure that the request is consistent with the purposes of Rule 9 and that each request is an appropriate use of public resources.
C. The Requesting Party seeks bulk distribution of Data or Compiled Information for its own use and understands that it must comply with the provisions of this Agreement.
D. The Division requires that the Requesting Party understand and agree to comply with certain restrictions on usage of the Data and Compiled Information.
E. The Requesting Party is not automatically entitled to the distribution of Data or Compiled Information of a court simply by the approval of this user agreement by the Division.
F. The Requesting Party may be required to pay an amount which the Court determines is the fair market value of the information requested.
G. The bulk distribution is limited to court records, even if the Requesting Party is seeking other information that is governed by other agencies' policies.

Agreement

1. **Definitions**. For the purpose of this Agreement, the following definitions shall apply:

A. "Administrative Record" means any document, information, data, or other item created, collected, received, or maintained by a Court, Court agency, or Clerk of Court pertaining to the administration of the judicial branch of government and not associated with any particular case or other agency.

B. "Agreement" means this User Agreement for Bulk Distribution of Data or Compiled Information, as well as any attachments or exhibits that may be affixed to this document or referenced within the agreement.

C. "Bulk Distribution" means the distribution of all, or a significant subset of Court Records not excluded from public access, in electronic form , as is, and without modification or compilation.

D. "Case Record" means any document, information, data, or other item created, collected, received, or maintained by a Court, Court Agency or Clerk of Court in connection with a particular case, not otherwise governed by Rule 9(G) or (H).

E. "Clerk of Court" means the Clerk of the Indiana Supreme Court, Court of Appeals and Tax Court, the Clerk of a Circuit, Superior, Probate or County Court, the Clerk of a City or Town Court, and the Clerk of a Marion County Small Claims Court, including staff.

F. "Compiled Information" means information that is derived from the selection, aggregation or reformulation of all or a subset of all of the information from more than one individual Court Record in electronic form in response to the approved request for bulk distribution.

G. "Court" means the Indiana Supreme Court, Court of Appeals, Tax Court, and all Circuit, Superior, Probate, County, City, Town, or Small Claims Courts as well as any division, section, office, unit, or other entity of the Court, as well as any of the officers, officials, employees, volunteers, contractors, or others acting as representatives lawfully representing the Court.

H. "Court Records" means both Case Records and Administrative Records.

I. "Data" means any computer or machine-readable copy of Court Records provided by a Court to the Requesting Party.

J. "Subscriber" means a client or customer of Requesting Party to whom bulk Data or compiled information is provided or to whom access to bulk Data or Compiled Information is given.

K. "Public Access" means the process whereby a person may inspect and copy the information in a Court Record, not excluded by Rule 9(G) or (H).

L. "Requesting Party" includes the above-identified party and all entities and known names under which the business operates, all subsidiaries that will utilize the Data or Compiled Information provided and all names under which subsequent individual requests to courts shall be made.

2. **Grant.**

A. Court Records Not Maintained in the Odyssey data repository. Subject to specific permission from the Courts identified below, the Division hereby grants to the Requesting Party restricted authorization to receive from such Courts the Court Records specifically identified below for the Requesting Party's own use in accordance with the

terms and conditions contained herein. Execution of this Agreement and approval of the Requesting Party's request by the Division do not create any mandatory obligation on the part of any clerk or Court to provide Court Records to the requesting Party. Under Administrative Rule 9(F), the Courts identified below must determine on an individual basis whether resources are available to transfer the Court Records to the Requesting Party and whether fulfilling the request is an appropriate use of public resources. Courts must determine on an individual basis whether to assess a charge for providing the Court Records, and Courts may make the granting of the request contingent upon the Requesting Party paying an amount which the Court determines is the fair market value of the information.

(1) **Court Records sought:**

All criminal and traffic records

(2) **Requested Courts:**

All counties, all courts

B. Court Records Maintained in the Odyssey data repository. The Division grants the Requesting Party authorization to receive bulk distribution of Odyssey records upon execution of a separate User Agreement for the Use of Bulk Data from Indiana Odyssey Case Management System, Form TCM-AR9(F)-7, and payment for such records in accordance with Administrative Rule 9 and the Supreme Court Order dated September 13, 2011, Case No. 94S00-1109-MS-552.

3. **Rights and Interests.** It is the parties' intent that all rights, title and interests, including all intellectual property rights, in and to the Court Records, data, code, application or any other information provided to the Requesting Party shall remain with the Courts. The Requesting Party shall not gain any proprietary right to or interest in any Court Records, data, code, application or any other information provided to the Requesting Party under this Agreement, whether or not the Court's records, data, code, application or other information is incorporated in or integrated with in any way whatsoever with the Requesting Party's property, data, code, reports, application, program, system or any other sort of product. Those rights may not be transferred, assigned, or sold for any purpose to any person, corporation, partnership, association, or organization of any kind. The Requesting Party shall provide the Division with the names of all entities related in any way to the Requesting Party, including subsidiaries and affiliates, the names under which the Requesting Party is doing business and any other related entity names. The Requesting Party shall supplement this agreement within thirty (30) days of a change in the list of names provided to the Division as requested by this Section 3.

4. **Ongoing Data Scrubbing and Update Requirements**. The Requesting Party shall comply fully with Rule 9 and shall delete any Social Security Number, bank account number and any other confidential information that is inadvertently included in the Court

Records and take other appropriate action to ensure that such confidential information is not disclosed to others. Upon notice, the Requesting Party shall comply with future orders to scrub data if they should arise.

5. **Restrictions on Use of Data.**

A. **Compliance With Authorities**. The Requesting Party shall comply with all current and, as subsequently amended, federal and state laws, court rules, administrative rules and policies governing, regulating, and/or relating to Court Records.

B. **Resale of Data**. The Requesting Party shall not reproduce, resell or otherwise distribute the Court Records or Data provided pursuant to this Agreement except in response to an inquiry from an individual for a Court Record or compilations or reports incidental to such individual Case Record as part of a service provided by Requesting Party. The Requesting Party shall not make bulk distribution of the Court Records or reconfigure the Court Records for subsequent bulk distributions.

C. **Policies for dissemination of Data**. The Requesting Party shall not disseminate Court Records to the public through remote electronic access such as the Internet or other electronic method unless the Clerk first obtains approval from the Division under Trial Rule 77(K). In the event the Requesting Party plans to offer a service allowing others to review the Court Records and disseminate information in the Court Records to subscribers, customers, clients, or other third parties, a current copy of the Requesting Party's policies and information related to the dissemination shall be attached hereto as an Exhibit B. The Requesting Party is under an ongoing obligation to provide the Division with a copy of any updated Policy information within thirty (30) days of its modification.

6. **Bulk Transfer to Third Parties**. The Requesting Party is prohibited from making a bulk distribution of the data or the compiled information obtained through this agreement to another party.

7. **Reporting Requirement.** With respect to Court Records not maintained in the Odyssey data repository, within thirty (30) days after the Requesting Party receives the first or only distribution of Court Records, the Requesting Party shall file with the Division of State Court Administration the Distribution Receipt Form, Form TCM-AR9(F)-3. However, the Requesting Party is not required to file with the Division a Form TCM-AR9(F)-3 for Court Records the Requesting Party receives from the Odyssey data repository.

8. **Disclosure Requirements.** The Requesting Party shall provide a disclosure statement similar to the one set forth below to each subscriber, customer, client or other third party who is provided access to the Court Records at the time any information from the Court Records is made available to them. At a minimum, the Requesting Party will ensure that a statement similar to the one set forth below, is displayed or provided to each subscriber, customer, client or other third party every time information from the Court Records is made available.

The data or information provided is based on information obtained from Indiana Courts on _____ (insert date most current version was created or in the

case of data from multiple sources, the range of dates relevant to the displayed data). The Division of State Court Administration and the Indiana Courts and Clerks of Court: 1) Do not warrant that the information is accurate or complete; 2) Make no representations regarding the identity of any persons whose names appear in the information; and 3) Disclaim any liability for any damages resulting from the release or use of the information. The user should verify the information by personally consulting the official record maintained by the court in question.

9. **Audits.** The Division may, at its discretion, perform audits to verify compliance with the terms and conditions of this Agreement and the appropriate use of the Court Records. The Requesting Party shall cooperate with the Division in such audit.

A. The Requesting Party agrees that the Division may include "control" or "salted" data as a portion of the Court Records as a means to ensure that any personally identifiable information is not used for commercial solicitation purposes or in an indiscriminate and reckless manner.

B. The Requesting Party agrees to provide the Division with access, at no charge, to any database created using the Court Records for the purpose of monitoring and auditing contract compliance.

C. The Requesting Party agrees to provide the Division with copies of the materials and information the Requesting Party provides its subscribers, customers, clients, or other third parties.

10. **Disclaimer of Warranties.** The Division, Courts, and Clerks of Court provide no warranties, express or implied and specifically disclaim without limitation any implied warranties of merchantability and fitness for a particular purpose, with respect to the Court Records or Data provided under this Agreement. All Court Records and Data provided under this Agreement are provided "As Is". The Division, Courts, and Clerks of Court further provide no warranties, express or implied, that the Court Records or Data is accurate, current, correct, or complete. It is expressly understood that it is the responsibility of the Requesting Party and/or its subscribers, customers, clients, or other third parties to whom the Court Records and Data is supplied to verify the Court Records and Data with the official information maintained by the Court having jurisdiction over the Court Records. **Reproductions of the Court Records or Data provided to the Requesting Party shall not be represented as a certified copy of the Court Record.**

11. **Limitation of Liability.** The Requesting Party acknowledges and accepts that the Court Records or Data are provided "as is" and may include errors or omissions and, therefore the Requesting Party agrees, that the Division, Courts, and Clerks of Court shall not be responsible or liable in any way whatsoever for the validity of the Court Records or Data. Specifically:

A. The Division, Courts, and Clerks of Court shall not be liable for any demand or claim, regardless of the form of action, for any damages resulting from the use of the Court Records or Data by the Requesting Party, its successor or assignee, or any of its subscribers, authors, clients or other parties.

B. The Division, Courts, and Clerks of Court shall not be liable for any demand or claim, regardless of form of action, for any damages arising from incorrect or incomplete information provided under this Agreement.

C. The Division, Courts, and Clerks of Court shall not be liable to the Requesting Party or any other party for any loss, including revenue, profits, time, goodwill, computer time, destruction of data, damages or any other indirect, special or consequential damage which may rise from the use, operation, distribution, transfer or modification of the Court Records or Data.

12. **Indemnification.** The Requesting Party shall defend, indemnify, and hold harmless the Division, Courts, and Clerks of Court, their respective employees and agents, and the State of Indiana from and against all claims, demands, suits, actions, judgments, damages, loss or risk of loss (including expenses, costs, and attorney fees) of any and every kind and by whomever and whenever alleged or asserted arising out of or related to any use, distribution or transfer made of the Court Records or Data by the Requesting Party, its successor or assignee, or any of its subscribers, customers, clients or any other parties.

13. **Assignment.** The Requesting Party may not, without the express written permission of the Division, transfer or assign: (i) this Agreement or any portion thereof; (ii) any right or benefit accruing to the Requesting Party under this Agreement; nor (iii) any claim arising under this Agreement.

14. **Termination and Renewal.**

A. **General**. Either the Division or the Requesting Party upon thirty (30) days written notice may terminate this Agreement without cause.

B. **Renewal**. This agreement expires on **January 31, 2014**, subject to renewal upon request by the Requesting Party. Renewal Requests may be sent to the Division after **January 1, 2014**. The renewal shall be for one calendar year. The Division will post the Renewal Form on the Supreme Court website at http://www.courts.in.gov/admin/2460.htm.

C. **Termination for Cause**. The Requesting Party shall be responsible and liable for any violations of this Agreement by the Requesting Party or any officer, employee, agent, subscriber, customer, or client of the Requesting Party and any such violation shall result in immediate termination of this agreement by the Division, at which time all Court Records and Data supplied to Requesting Party or any officer, employee or agent of the Requesting Party in any form will immediately be returned to the Division. In such event, the Requesting Party shall be liable for damages as authorized by law.

D. **Termination for Nonpayment.** The Division may immediately, without notice, terminate this Agreement for failure of Requesting Party to pay an invoice for costs associated with the preparation or transfer of the Court Records and Data outstanding longer than 30 days.

E. **Termination in Event of Assignment.** The Division in its sole discretion may terminate this Agreement without notice if the Requesting Party transfers or assigns, without the express written permission of the Division: (i) this Agreement or any portion thereof; (ii) any right or benefit accruing to the Requesting Party under this Agreement; or (iii) any claim arising under this agreement.

F. **Termination in Event of Failure to Update.** The Requesting Party is under an ongoing obligation to provide the Division with a complete list of entities and names under which the Requesting Party conducts business. The Division, in its sole discretion, may terminate this Agreement if the Requesting Party does not update any of the information required to be submitted in the Request attached as Exhibit C.

15. **Attachments.** This Agreement incorporates by way of attachment the following:

A. A list of all known business entity names related to the Requesting Party that will participate in the use and dissemination of the Data provided as Exhibit A;

B. The company policies provided to the Requesting Party's subscribers, customers, clients or other third parties as Exhibit B;

C. The original Request provided to the Division from the Requesting Party as Exhibit C; and

D. The approval letter provided to the Requesting Party from the Division as Exhibit D.

These Exhibits may be amended or modified and are required to be updated by the Requesting Party in accordance with the terms of this Agreement. The amendments and or modifications shall be incorporated into this Agreement by reference on the attachments.

The undersigned individuals represent that they have the authority to execute this Agreement on behalf of their respective parties and execute this Agreement to be effective this _____ day of _____, _____.

Requesting Party	Division
By: [signature]	By: [signature]
Printed: TERRY NEAL	Lilia Judson
Title: PRES	Executive Director, Indiana Supreme Court Division of State Court Administration
Date: 2-4-13	Date: 1/30/13

Indiana Supreme Court
Division of State Court Administration

USER AGREEMENT FOR THE USE OF BULK DATA FROM INDIANA ODYSSEY CASE MANAGEMENT SYSTEM

This Agreement is made and entered into by and between Data Diver Technologies and the Division of State Court Administration (hereafter referred to as "Division"):

RECITALS

WHEREAS, the Division has approved your Bulk Data request pursuant to Administrative Rule 9(F); and

WHEREAS, the Division has the software license and the rights and ownership to the Odyssey case management system for Indiana courts and clerks; and

WHEREAS, the Indiana Supreme Court has authorized the Division to release Odyssey records in bulk in an Order dated September 13, 2011, Case No. 94S00-1109-MS-552; and

WHEREAS, Data Diver Technologies has entered into the User Agreement for Bulk Distribution of Data with the Division for the purpose of establishing roles and responsibilities associated with the dissemination and use of Indiana court information pursuant to the provision of Administrative Rule 9 of the Indiana Rules of Court ("Rule 9").

NOW, IN CONSIDERATION OF THE forgoing representations and covenant hereinafter set forth, the parties agree as follows:

1. **Authority.** The parties agree that this Agreement is specifically undertaken pursuant to the authority under Indiana Law to enter into binding Agreements.
2. **Service and Fees.**
   A. The Division will provide Data Diver Technologies the initial data extract pursuant to the Order.
   B. The Division will provide a monthly data extract thereafter on or before the tenth of each month.
   C. The Division will provide an invoice for each extract.
   D. Upon payment of the invoice, the extracted data will be made available via an SFTP account accessing client specific folders at SFTP.IN.Gov.
   E. All payments will be made by check and made payable to Division of State Court Administration with a notation indicating the invoice number and that payment is for Odyssey bulk records.
3. **Refreshing data**. Because the status of a case may change from time to time, all purchasers of bulk data must refresh all records with each new extract. This will ensure that cases that have been sealed or restricted since the last download are accurately reflected in the database.
4. **Disclaimer.** Information provided is not to be considered or used as an official court record and may contain errors or omissions. Accuracy of the information is not warranted. Official records of court proceedings may only be obtained directly from the clerk of the

court maintaining a particular record. If the record contains financial data, it may include interest that has accrued or other charges that have become due since the last financial transaction. The Clerk's office can provide current financial information.

5. **Compliance with Law.** Any party whose Bulk Data Agreement has been approved hereby agrees to comply with all federal and state laws that may be applicable to the use, sale, or transmission of the bulk data.

6. **Incorporation by reference.** All terms and conditions of the User Agreement for Bulk Distribution of Data or Compiled Information Not Excluded from Public Access entered into with the Division of State Court Administration are incorporated into this Agreement. Data Diver Technologies agrees to use and disseminate the Odyssey data provided under this agreement in the manner permitted by said User Agreement for Bulk Distribution of Data or Compiled Information Not Excluded from Public Access.

7. **Effective Date and Commencement of Terms.** This Agreement shall be effective and the terms set forth shall be deemed enforceable upon the signature and approval of all parties.

By: Lilia Judson Date: 1/30/13

Lilia G. Judson
Executive Director
Division of State Court Administration

By: Terry Neal Date: 2/5/13

Printed Name: TERRY NEAL

Printed Title: PRES