

Agreement for Electronic Provision of Woodbury County Recorder's Office Public Record Images

THIS AGREEMENT ("Agreement"), effective as of the date the last Party signs this Agreement (the "Effective Date"), is made and entered into by and between Zillow, Inc. ("Zillow") and Woodbury County, Iowa, a political subdivision of the State of Iowa having its principal offices at 620 Douglas St., Sioux City, IA 51101 ("County"). Zillow and County are each individually referred to herein as a "Party" and jointly as the "Parties."

1. RECITALS:

1.1 County's recorded documents are stored in a digitized image format in County's electronic document management system. Certain recorded documents are public records under Iowa's Open Records law.

1.2 Zillow desires to obtain the digitized images on an ongoing basis and also possibly obtain certain historical digitized image files.

1.3 Zillow desires to obtain and County desires to provide the Services, as described herein, to Zillow in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties hereto do hereby mutually promise, covenant and agree as follows:

2. SERVICES.

County shall provide electronic access to Zillow to County's recorded digitized images subject to the terms and conditions of this Agreement. County shall have the sole discretion to determine the frequency, method, manner and location of the performance of its Services under this Agreement. County may, at its convenience and sole discretion, suspend or terminate electronic access to the digitized images. Zillow's use of digitized images obtained under this Agreement shall comply with applicable state and federal law.

3. COMPENSATION.

Access to images on an ongoing basis in a format determined by County shall be provided at no charge to Zillow. However, Zillow shall pay the reasonable actual costs for:

- 1.) Provision of historical digitized images;
- 2.) Data in a specific format requested by Zillow.

No fees shall be incurred under this Agreement without prior authorization from Zillow. Zillow shall prepay any fees due under this Agreement prior to County performing the Services.

4. PERSONALLY IDENTIFIABLE INFORMATION.

Pursuant to Iowa Code Section 331.606A, "personally identifiable information" means one or more of the following specific unique identifiers when combined with an individual's name: (1) social security number. (2) Checking, savings, or share account number, credit, debit, or charge card number. Digitized images provided under this agreement have been redacted through a system created by the Iowa County Records Association. However, no redaction system has been shown to be completely accurate. Any personally identifiable information which may be found on a digitized image is confidential. If Zillow discovers any personally identifiable information in an image provided under this agreement, Zillow shall immediately notify the Woodbury County Recorder's Office so that the information can be restricted or redacted. Additionally, Zillow is expressly prohibited from distributing, sharing, or publicizing any personally identifiable information which may be found.

5. **DISCLAIMER OF WARRANTY:**

ZILLOW AGREES THAT WOODBURY COUNTY HAS MADE NO EXPRESS WARRANTIES, ORAL OR WRITTEN, TO ZILLOW REGARDING THE PRODUCTS AND DATA AND THAT THE PRODUCTS AND DATA ARE BEING PROVIDED TO ZILLOW "AS IS" WITHOUT WARRANTY OF ANY KIND. WOODBURY COUNTY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, BUT WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, SECURITY, AND FITNESS FOR A PARTICULAR PURPOSE.

6. **INDEMNITY AND LIMITATION OF LIABILITY:**

6.1 **INDEMNITY**

Zillow agrees to indemnify, defend and hold Woodbury County, Iowa and its officials, employees, contractors, suppliers, and agents harmless from any and all claims and/or demands, including reasonable attorneys' fees, made by any third party in connection with or arising out of (a) any use or misuse by Zillow (or anyone using your account) of the Services or data; (b) any act or omission to act by Zillow related to this Agreement; or (c) harm of any kind caused to any third party in any way involving the Agreement.

6.2 **LIMITATION OF LIABILITY**

Zillow assumes the entire risk of using the services provided. IN NO EVENT SHALL WOODBURY COUNTY BE LIABLE TO ZILLOW FOR ANY DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS, OR OTHER INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OF THE SERVICE OR DATA, EVEN IF WOODBURY COUNTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL WOODBURY COUNTY'S LIABILITY FOR ANY CLAIM, WHETHER IN CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY, EXCEED THE FEE PAID BY ZILLOW, PROVIDED, HOWEVER, IF THE RELEVANT PRODUCT WAS PROVIDED TO ZILLOW AT NO CHARGE ZILLOW AGREES WOODBURY COUNTY SHALL NOT BE LIABLE TO ZILLOW FOR ANY DAMAGES.

7. TERM AND TERMINATION:

This Agreement shall continue in full force and effect until terminated as provided in this section. Either party may terminate this agreement as follows:

7.1 Upon failure or neglect of Zillow to pay any undisputed amounts payable pursuant to this Agreement when due, if default continues for thirty (30) days after written notice to Zillow;

7.2 Upon the failure of either Party to perform any of its obligations under this Agreement if continuing for ten (10) days after written notice to such breaching Party;

7.3 For the convenience of either Party upon thirty (30) days written notice.

If either Party shall breach the terms of this Agreement, the other Party shall reasonably and in good faith attempt to reduce and mitigate damages and injuries. County shall be paid for all work completed prior to termination of this Agreement. The payment, indemnity, and disclaimer of warranty provisions of this Agreement shall survive termination of the Agreement.

8. MISCELLANEOUS:

8.1 SOFTWARE TERMS OF USE AND ELECTRONIC ACCESS

Zillow agrees to be bound by the applicable Terms of Use of any software used to provide electronic access to the digitized images. The computer system is for authorized use only. Users have no explicit or implicit expectation of privacy. Any or all uses of this system and all data on this system may be monitored, recorded, or audited and disclosed to authorized personnel and authorized officials of other agencies.

By using this system, the user consents to such disclosure at the discretion of authorized personnel. Unauthorized or improper use of this system may result in termination of the contract, and civil and criminal penalties.

8.2 SEVERABILITY

In the event of invalidity of any provision of this Agreement, the Parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement.

8.3 GOVERNING LAW

This Agreement will be governed by Iowa law, without regard to choice of law principles. Venue for litigation shall be in Woodbury County, Iowa.

8.4 ENTIRE AGREEMENT

This is the entire agreement between Zillow and Woodbury County, which supersedes any prior agreement, whether written or oral, and all other communications between Woodbury County and Zillow relating to the subject matter of this Agreement.

Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person or entity other than Zillow and Woodbury County any rights or remedies under or by reason of this Agreement. Zillow may not assign this Agreement without the prior written consent of Woodbury County. This Agreement shall be binding on Zillow and your affiliates, employees, agents and permitted assigns.

8.5 RESERVATION OF RIGHTS

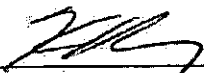
All rights not expressly granted in this Agreement are reserved by Woodbury County.

8.6 AUTHORITY AND APPROVAL

Each Party has full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each had been properly authorized and empowered to enter into this Agreement. Each Party further acknowledges that it has read this Agreement and agrees to be bound by it.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below.

WOODBURY COUNTY, IOWA

By: 

Print Name: Keith Radig

Title: Chairman

Date: 9/20/22

WOODBURY COUNTY AUDITOR/RECORDER

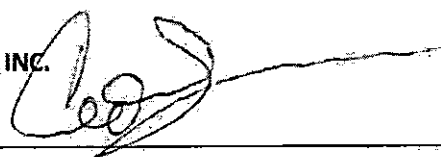
By: 

Print Name: Patrick F. Gill

Title: Auditor and Recorder

Date: 9-14-2022

ZILLOW, INC.

By: 

Print Name: Carol Trice

Title: Director, Public Data Operations

Date: 09-06-2022