



# *South Dakota Secretary of State*

## SHANTEL KREBS

### **Notary Public Commission Database Terms and Agreements**

South Dakota Secretary of State's (SOS) office provides a download of current, active Notary Public Commission records. The download is made available in a digital Excel (.xlsx) format and will be emailed to the Requestor.

The Requestor and The Office of Secretary of State (SOS) agree to contract for the Notary Public Commission database provided by the SOS as per the Terms and Conditions stated below.

### **Terms and Conditions**

1. This agreement sets forth the terms and conditions under which SOS will provide services to the Requestor.
2. Term: SOS reserves the right to withdraw any service without consulting Requestor prior to withdrawing such service and shall have no liability whatsoever to Requestor in connection with deletion of any service. Requestor may terminate this agreement at any time by written notice to the SOS.
3. Requestor acknowledges that he/she has read the Agreement and agrees that it is the complete and exclusive statement between the parties, superseding all other communications, oral or written. This agreement and other notices provided to the Requestor by SOS constitute the entire agreement between the parties. This agreement may be modified only by written amendment signed by the parties except as otherwise provided in this paragraph. In the event subscriber issues a purchase order or other instrument covering the services herein specified, it is understood and agreed that it is for Requestor's internal purposes only and shall in no way modify, add to, or delete the terms and conditions in this Agreement.
4. Payment by Requestor: Requestor may establish a Prepaid Account Deposit (PAD) account or pay via mailed check.
5. Limitation of Liability
  - A. The remedies set forth in this agreement are exclusive and in no event shall SOS, its administrators or its employees be liable for special, indirect, incidental, or consequential damages, including, but not limited to lost income or lost revenues, whether such damages arise out of breach of contract, negligence, strict liability, or any other theory of liability. Such damages shall in any event be limited to the charges paid for the previous year by Requestor for the service in connection with which a claim of liability is asserted or imposed. Requestor specifically understands and recognizes that the system by which these services are offered may experience problems of various kinds resulting in an inability to provide services.
  - B. Requestor agrees that SOS will not be liable for any claim or demand of any nature or kind whether asserted against SOS or against Requestor by any third party, arising out of the services or materials provided for their use. Requestor agrees to hold SOS harmless for claims of third parties arising out of the Requestor's use of the services or materials provided pursuant to this Agreement.



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C. SOS shall not be liable for or deemed to be in default for any delays or failure in performance or interruption of service resulting directly or indirectly from any cause or circumstance, including problems with or delays caused by its database or other providers.

D. No action or suit, regardless of form, other than an action for payments due SOS, arising out of the transactions pursuant to this Agreement may be brought more than one year after the cause of the action accrues.

E. The Office of Secretary of State shall at no time be liable for any errors or omissions for information available on any electronic program operated by SOS.

### 6. Warranty

A. SOS makes no warranties express or implied, including, but not limited to the implied warranties of merchantability and fitness for any particular purpose. While SOS and its providers strive for accuracy and completeness of data and services furnished pursuant to this Agreement, no warranty or representation as to accuracy is made or implied.

B. Requestors warrant that it is aware of and will comply with all applicable federal, state, or other laws with regard to access to or use of any and all information, databases, programs, or other products to which access is provided by or through SOS.

### 7. General

A. Waiver: The waiver, modification, or failure to insist by SOS on any of these terms or conditions, shall not void, waive, or modify any of the other terms or conditions nor be construed as a waiver or relinquishment of SOS's right to performance of any such term or terms.

B. Severability: If any provision or part of the Agreement shall be declared illegal, void, or unenforceable, the remaining provisions shall continue in full force and effect.

C. Governing Law: This agreement shall be governed by and construed according to the laws of South Dakota, and all actions hereunder shall be brought in a federal or state court of competent jurisdiction located in Hughes County, South Dakota and in no other jurisdiction.

D. Assignment: This Agreement is not assignable or transferable by Subscriber and any attempted assignment or transfer shall be null and void and of no force or effect.

