



# VIRGINIA APPELLATE COURTS ELECTRONIC SYSTEM (VACES)

## Terms and Conditions of Use (End User License Agreement)

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By accessing and using the **Virginia Appellate Courts Electronic System** (“VACES”, “eFiling”, “eRecord”), you are agreeing to comply with the following VACES Terms and Conditions of Use (“Terms”), which shall be referred to collectively as the End User Licensing Agreement, or “EULA”.

This is a legal agreement between the Office of the Executive Secretary of the Supreme Court of Virginia (“OES” or “Owner”) and you. No other third party or its subsidiaries are a party to this EULA. This EULA and [VACES Privacy Policy](#), which is incorporated herein by reference, govern your access to and use of the VACES.

### 1. Representation and Warranties

If you access or use the VACES on behalf of another person or legal entity, you represent and warrant that you are authorized to use the VACES pursuant to the Terms of this EULA. If you do not accept this EULA in its entirety, then you may not access or use the VACES, any use of the VACES by you will be considered a violation of OES’s intellectual property rights, and may additionally subject you to civil or criminal penalties.

### 2. Modification of Terms

OES may unilaterally modify the terms of this EULA. OES reserves the right to discontinue the VACES or to change the content or formatting of the VACES at any time without prior notice, and to require the immediate termination of any specific use of the VACES. By accessing and using the VACES, you are accepting and agreeing to the Terms then in effect; it is your responsibility to check for updates to the EULA before use. OES shall not be liable to you or to any third party for taking any of these actions and will not be limited to the remedies below if you violate this EULA.

### 3. Restrictions and Limitations on Use and Content

Access to VACES is limited to: a) Organizations (as defined in section 4.7.2 below) expressly authorized by the Clerk of the Supreme Court of Virginia and the Clerk of the Court of Appeals of Virginia to submit electronic documents required to be filed with the Supreme Court of Virginia and Court of Appeals of Virginia and b) clerks of courts of record or other tribunals to submit electronic records.

In addition, by agreeing to these terms and conditions, you certify that you have reviewed and understand the **VACES GUIDELINES FOR SUBMISSION OF ELECTRONIC FILINGS AND RECORDS AND USER’S/ADMINISTRATOR’S MANUAL FOR THE VIRGINIA APPELLATE COURTS ELECTRONIC SYSTEM** accessible through the **Help** link on the VACES navigation bar.

### 4. General Terms

#### **4.1 Compliance with Court Rules and the Code of Virginia**

It is your responsibility to ensure compliance with all applicable statutes, rules, and policies, including but not limited to the [Rules of the Supreme Court of Virginia](#).

#### **4.2 Proprietary Rights**

You acknowledge that the VACES is protected by one or more copyrights pursuant to U.S. copyright laws and by other intellectual property laws. You agree to comply with all copyright notices, trademark notices, ownership information or restrictions contained in any non-public content on the VACES.

You further acknowledge that all rights, titles, and interests in the VACES shall remain with OES or its subcontractors(s) and agree that you will not violate such proprietary rights. Any violation will result in the termination of your access to the VACES, deactivation of your account, and possible legal action or other legal remedies.

#### **4.3 Software and Hardware Requirements**

Please be aware that, in order to use the VACES, your equipment must meet or exceed the following software and hardware requirements:

1. A computer operating with internet access;
2. Internet browser software such as Google Chrome®, Microsoft Edge®, Mozilla Firefox®, Microsoft Internet Explorer® or Apple Safari® (see the VACES Guidelines and User's Manual for more details);
3. Compatibility View for Internet Explorer should not be turned on;
4. Adobe Reader® or equivalent software to view Portable Document Format (PDF) documents (PDF reader software is free and downloadable from various websites); and
5. The correct security settings, on the computer, that allow it to accept cookies from the VACES.

#### **4.4 Software and Hardware Maintenance**

You are also responsible for ensuring that your equipment is suitable for connecting to the VACES and that it has the minimum system and software requirements to use and operate the VACES. In addition, you are responsible for access and connectivity to the Internet, your relationship with your Internet Service Provider (ISP) and any telephone or other connection and all service fees associated with such access.

#### **4.5 No Warranty by OES**

Every effort is made to provide accurate and current information through the VACES. However, due to updating cycles and resources, you may encounter some inaccurate or outdated information. OES makes no warranties regarding the availability of the VACES or the accuracy, reliability, or content of the information provided. OES disclaims any responsibility or liability for errors, omissions, and the accuracy of any information. VACES users have the responsibility to verify the accuracy, timeliness, and completeness of the information.

Due to the complex nature of the Internet, OES does not warrant that access to the VACES or the operation or performance of the system will be uninterrupted or error-free. THE VACES IS SUBJECT TO LIMITATIONS, DELAYS, AND PROBLEMS INHERENT WITH THE INTERNET. OES shall use reasonable efforts to correct or cure any such reproducible and documented material defects.

You expressly understand and agree that, to the maximum extent permitted by applicable law, the site, services and materials are provided by OES on an “as is” basis without warranty of any kind, including express, implied, statutory or fitness for a particular purpose. By accessing and using the system, you accept all risks of loss or damage resulting from your access and use of the system.

No advice or information, whether oral or written, that is obtained by you from OES or through or from use of the services shall create any warranty not expressly stated in the Terms.

#### **4.6 Limitation of Liability**

You acknowledge that in no event shall OES, its agents, directors, employees, partners, or suppliers be liable to you or any third party for any direct, special, incidental, indirect, consequential, or punitive damages, including those resulting from loss of use, data or profits, whether or not foreseeable, or if OES has been advised of the possibility of such damages, or based on any theory of liability, including breach of contract or warranty, negligence or other tortious action or any other claim arising out of or in connection with your use of or access to the site, services or materials.

#### **4.7 Definitions**

##### *4.7.1 Authorizing Party*

The Authorizing Party of an Organization is an individual with the authority to make decisions for the Organization.

##### *4.7.2 Organization*

An Organization may be a law firm, an individual attorney, an individual acting *pro se* (representing themselves), a government agency, or a private entity. The Clerk of the Supreme Court of Virginia and the Clerk of the Court of Appeals of Virginia will determine whether an Organization meets the criteria for participation in the VACES. The term “Organization” shall also include a clerk of a court of record or other tribunal.

##### *4.7.3 Users*

###### *4.7.3.1 Administrator Only*

An Administrator is the person designated to act on behalf of the Organization for the purposes of adding, deleting, and managing other users who may have access to their Organization’s VACES account. An Administrator’s responsibilities include, but are not limited to the following:

- Manage and edit the Organization’s account;
- Register and delete Users;
- Add or remove administrative privileges;

- Manage and edit links and Users; and
- Reset user passwords.

YOU SHOULD CAREFULLY CONSIDER WHOM TO DESIGNATE AS YOUR ORGANIZATION'S VACES ADMINISTRATOR(S).

It is strongly recommended that your Organization appoint a second person who can serve as a backup Administrator. Once trained, Administrators will be expected to maintain their Organization's account with minimal oversight. For individuals acting *pro se* (representing themselves), the Clerk of the Supreme Court of Virginia and the Clerk of the Court of Appeals of Virginia will serve as the Administrator(s).

#### 4.7.3.2 Administrator/Filer

An Administrator/Filer is the person designated to support the account management of the Organization, which includes, but is not limited to the following:

- Support the Organization's account management;
- Register and delete Users;
- Add or remove administrative privileges;
- Manage and edit links and Users;
- Reset user passwords;
- Submit documents; and
- View and print reports.

#### 4.7.3.3 Filers

A Filer is any person (e.g., attorney, paralegal, individual acting *pro se* representing himself or herself) who is part of a registered Organization. Each Filer must be associated with at least one Organization within the VACES. A registered VACES user who is not an attorney can file documents for his or her associated attorney(s) using the VACES.

## 4.8 License for Use

OES has developed the VACES for the filing of documents in the Supreme Court of Virginia and the Court of Appeals. Users will have registered personal accounts to access the VACES and its contents. Upon registration, Users will have a non-exclusive, nontransferable right to access and use the VACES subject to the Terms of this EULA.

## 4.9 User Conduct

By using the VACES, you represent and warrant that the following will be observed:

- You are using your actual identity;
- You have provided only true, accurate, current and complete information; and
- You will maintain and promptly update the information that you provide to ensure it remains true, accurate, current, and complete.

You agree NOT to use or to encourage or permit others to use, the VACES to do any of the following:

- Make available any material that the user does not have a right to make available under any law or contractual or fiduciary relationship;
- Make available any material that infringes any intellectual property right or other proprietary right of any party;
- Make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software, hardware or telecommunications equipment;
- Damage, disable, overburden or impair any OES server or the networks connected to any provider server;
- Interfere with or disrupt the VACES or violate any applicable laws related to the access to or use of the VACES, violate any requirements, procedures, policies or regulations of networks connected to the VACES, or engage in any activity prohibited by the Terms;
- Access or attempt to access any material that is not authorized to be accessed or made available through the VACES; or
- Gather or mine data using robots or similar data-gathering or extraction methods in connection with the VACES or its contents.

The VACES shall not be used in a manner contrary to or in violation of any applicable federal, state, or local law, rule, or regulation, including without limitation, the Fair Credit Reporting Act (15 U.S.C.A.1681 et seq.).

If any of these terms are violated, then OES has the right to terminate your use of the VACES and you may be subjected to criminal or civil penalties.

No portion of the VACES source code, layout, or structure may be reproduced, transmitted, or shared in any way without express written permission from OES.

#### *4.9.1 Information Delivery*

All users are solely responsible for the timely submission of any and all information or documents provided to the VACES for electronic transmission or delivery to the Clerk of the Supreme Court of Virginia and the Clerk of the Court of Appeals of Virginia.

#### *4.9.2 Information Accuracy*

All users are solely responsible for the accuracy of any information provided to the VACES in connection with the electronic transmission or delivery of any documentation.

#### *4.9.3 Case Status*

You are solely responsible for the filing of any document submitted to the courts through the VACES. It is your responsibility to confirm that the documents submitted have been accepted by the clerk of court.

In addition, you are responsible for tracking and calculating any filing deadlines.

#### *4.9.4 Termination of Access*

For Organizations other than clerks of courts of record, OES may, without notice and for any reason, immediately terminate your access to the VACES. For Organizations that are

clerks of courts of record, OES may, without notice, immediately terminate your access to the VACES for violations of this EULA.

**4.10 System Availability**

The VACES is expected to be available daily, including weekends and holidays, from 7:00 AM to 12:00 AM Eastern Standard Time (EST). There may be brief periods of downtime to allow for planned system maintenance. Unexpected issues may occur and the system may be unavailable without notice. Every effort will be made to minimize any unplanned downtime. When the VACES is unavailable, a message will display the hours of operation.

**4.11 Security**

*4.11.1 User Name and Password Formats*

Each User must use a unique user name and password to access the VACES. Users (including Administrator/Filers) will either create their own user name or have a User Name assigned to them by their Organization’s Administrator.

*4.11.2 Password Security*

You agree to use due diligence to protect your own password, as well as those to which you may have access. Under no circumstances will you share or allow another person to log in to your account.

You agree that you are solely responsible for all activities that occur under your User Name and password. You should immediately notify your Administrator of any actual or suspected unauthorized use of your account and request that your password be changed. In addition, when generating your security answers (for a forgotten password) use personal, yet memorable answers. This information should not be data that is publicly available or easily guessed.

**5. VACES Privacy Policy**

The VACES Privacy Policy can be found at <http://www.courts.state.va.us/online/vaces/resources/privacypolicy.pdf>

The VACES Privacy Policy is incorporated as part of this EULA.

**6. Disclaimer**

OES shall not be liable for your use of the information, content, or material accessed using the VACES or its contents, nor shall it be liable for any delays in the receipt of any messages as delivery is subject to effective transmission from your service provider network. To the fullest extent allowed by law, OES disclaims all warranties with regard to the VACES.

**BY USING THE VACES, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ AND UNDERSTAND THE VACES PRIVACY POLICY, THIS EULA, THE RULES OF THE SUPREME COURT OF VIRGINIA, AND ACCEPT ALL OF THE TERMS.**