

BARBOOKS™ LICENSE AGREEMENT

IMPORTANT—READ THIS ENTIRE DOCUMENT CAREFULLY!

This License Agreement (“this Agreement”) is a binding agreement between you (“you” or “your”), and the Oregon State Bar (“OSB”). The materials that are the subject of this Agreement are OSB’s online library of legal research publications and accompanying downloadable forms (“BARBOOKS™”).

By accessing BARBOOKS™, you agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, OSB will not license BARBOOKS™ to you and you will not be allowed to access BARBOOKS™ via the Internet or download, install, use, or copy the accompanying forms.

SECTION 1. LICENSE

1.1 Subject to the terms of this Agreement and payment of the applicable license fee, OSB hereby grants you one or more limited, nonexclusive, and nontransferable licenses for use of BARBOOKS™. The number of licenses and the annual license fee are based on the number of OSB members in your firm as set forth in the Pricing Schedule, which is posted at www.osbar.org.

1.2 Your licenses are for the term of one year, unless renewed. License fees are not prorated for partial years nor is there any refund if your firm size falls below the size for the license fee already paid for the year.

1.3 You will provide OSB with the names and bar numbers of all OSB members in your firm. OSB will assign a password to each OSB member in your firm. The password will be used in conjunction with each person’s bar number to access BARBOOKS™. If the number of OSB member users is fewer than the total allowed licenses for the price range applicable to your firm, OSB will assign passwords and nonmember bar numbers for use by support staff at your request. However, other support staff of licensed users may access BARBOOKS™ using the bar number and password of the licensed user without the need to purchase additional licenses or obtain additional nonmember bar numbers and passwords. You must notify OSB immediately if any licensed user leaves the firm or if any OSB member joins the firm during the license year.

1.4 Licensed users may access BARBOOKS™ through the Internet from any computer, including personal home computers.

SECTION 2. OWNERSHIP

All right, title, and interest in BARBOOKS™, including any updates or revisions thereto, is and shall remain the sole and exclusive property of OSB, its licensors, and their successors and assigns. BARBOOKS™ is protected by U.S. and international copyright laws and treaties, as well as other intellectual property laws and treaties. Other than the limited license granted in this Agreement, no interest in or rights or licenses to BARBOOKS™ are granted to you, and no interest in or rights or licenses to BARBOOKS™ shall inure in or accrue to you, whether by implication, estoppel, or otherwise. All rights of any kind in BARBOOKS™ that are not expressly granted in this Agreement are entirely and exclusively reserved to and by OSB, its licensors, and their successors and assigns.

SECTION 3. LIMITATIONS OF USE

3.1 You may not under any circumstances:

- (a) sublicense, distribute, or transfer BARBOOKS™ or your rights under this Agreement;
- (b) make any representation or warranty with regard to BARBOOKS™; or
- (c) remove, destroy, deface, or otherwise alter any copyright or other proprietary rights notices, legends, statements, or marks included in or affixed to BARBOOKS™ online displays or printouts.

3.2 Except for individual forms used in connection with the representation of your clients and in accordance with each form's intended purpose, you may not under any circumstances:

- (a) modify, adapt, translate, or prepare derivative works based on BARBOOKS™; or
- (b) allow any persons not licensed to use BARBOOKS™ under this Agreement to use, copy, or access BARBOOKS™ by any means.

SECTION 4. UPDATES; SUPPORT

OSB will post any updates, revisions, or new versions of individual titles to BARBOOKS™ as they become available. You may access any such updates, revisions, or new versions that OSB posts to BARBOOKS™ during the term of your license. Nothing in this Agreement obligates OSB to provide any updates, revisions, new versions, bug fixes, maintenance, or support for

BARBOOKS™.

SECTION 5. WARRANTIES, DISCLAIMER, AND LIMITATION OF LIABILITY

5.1 EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, BARBOOKS™ IS PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

5.2 OSB’S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY CLAIM FOR DAMAGES UNDER ANY LEGAL THEORY WILL BE A PRORATED REFUND OF THE LICENSE FEE FOR THE PERIOD DURING WHICH THE EVENT COMPLAINED OF OCCURRED OR, AT OSB’S DISCRETION, AN EXTENSION OF YOUR LICENSE TERM FOR A SPECIFIED PERIOD, WITHOUT COST.

NEITHER OSB NOR ANY THIRD-PARTY LICENSOR SHALL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY CLAIM RELATING TO YOUR INABILITY TO PERFORM LEGAL RESEARCH OR RELATED WORK OR TO PERFORM SUCH WORK PROPERLY OR COMPLETELY, EVEN IF YOUR ACCESS TO BARBOOKS™ HAS BEEN TERMINATED WITHOUT NOTICE BY OSB.

NEITHER OSB NOR ANY THIRD-PARTY LICENSOR SHALL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST OR DAMAGED DATA, SOFTWARE, OR EQUIPMENT; SUBSTITUTE GOODS; LOST PROFITS; BUSINESS INTERRUPTION; OR OTHER INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, HOWEVER CAUSED, RELATING IN WHOLE OR PART TO YOUR RIGHTS UNDER THIS AGREEMENT, OR YOUR USE OF OR INABILITY TO USE BARBOOKS™ IN ANY WAY.

5.3 OSB neither represents nor warrants that BARBOOKS™ is accurate, correct, or error-free, or that it will meet your requirements. BARBOOKS™ is intended only as a starting point in your legal research and the accompanying forms are only a starting point in developing an appropriate document to use in a particular matter. You agree that you must exercise

independent professional judgment in conducting legal research or in modifying and using any form in a specific client matter.

5.4 OSB shall not be liable in damages nor shall you have the right to terminate this Agreement for any delay or default in performing hereunder that is caused by conditions beyond OSB's reasonable control, including, but not limited to, acts of nature, government restrictions, loss or cancellation of any license, war, insurrection, or any other such cause.

SECTION 6. TERMINATION

6.1 This Agreement shall commence at the time your online access to BARBOOKS™ is activated and shall terminate one year from the date of initial activation, unless renewed by you. Either party may terminate this Agreement immediately on the other party's breach of any term of this Agreement if the other party fails to fully remedy the breach within 10 days of receiving notice of the breach.

6.2 On termination of this Agreement for any reason, you shall immediately cease all use of BARBOOKS™ in any form and your access to BARBOOKS™ shall be immediately terminated by OSB. You shall immediately destroy all copies of BARBOOKS™ and accompanying forms in your possession or control.

6.3 Except as otherwise stated in this Agreement, any provisions in this Agreement that by their sense and context are intended to survive the termination of this Agreement shall survive such termination. Specifically, but without limitation, any cause of action that OSB may have against you for breach of this Agreement before the date of termination shall survive such termination.

SECTION 7. GENERAL

7.1 **Waiver.** No waiver of any violation or nonperformance of this Agreement in one instance shall be deemed to be a waiver of any subsequent violation or nonperformance. A waiver must be in writing, signed by the parties, to be effective.

7.2 **Severability.** If any term or provision of this Agreement is to any extent held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

7.3 Notice. Any notice or report under this Agreement shall be deemed given if delivered or sent by first-class mail, postage prepaid, addressed to the other party at that party's last known address, or at such other address as designated by the party by written notice. If notice is given by mail and the notice affects other parties' rights under this Agreement, the effective date of the notice shall be three days after the date of mailing or the date the notice is received, whichever is earlier.

7.4 Applicable Law; Disputes. This Agreement shall be governed by and construed in accordance with the laws of the state of Oregon, U.S.A., without regard to Oregon's conflict-of-laws principles. Any controversy or dispute arising out of or relating to this Agreement shall be resolved through binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association unless otherwise agreed to by the parties at the time of the controversy or dispute. The parties shall endeavor to select a mutually acceptable single arbitrator knowledgeable about issues relating to this Agreement. If the parties are unable to agree on a single arbitrator, each party shall select an arbitrator and those two arbitrators shall in turn select a third arbitrator. The arbitration shall take place in Multnomah County, Oregon, or other location that is mutually agreed upon by the parties. The arbitrator(s) shall not have authority to modify, alter, or amend any provision of this Agreement and may not award punitive or other damages expressly excluded herein. The arbitrator(s) shall have authority to issue temporary restraining or injunctive orders in connection with the arbitration. The award of the arbitrator(s) shall be final and binding, and judgment thereon may be entered in any court having jurisdiction. During the pendency of any arbitration, the parties shall continue to perform their obligations under this Agreement except as the arbitrator(s) may order otherwise.

7.5 Injunctive and Other Equitable Relief. You agree that the remedy at law for any breach or threatened breach of this Agreement by you would, by its nature, be inadequate, and that in that event OSB shall be entitled, in addition to damages, to a restraining order, temporary or permanent injunctive relief, specific performance, and other appropriate equitable relief, without showing or providing that any monetary damage has been sustained.

7.6 Attorney Fees and Costs. The prevailing party in any proceeding relating to this Agreement shall be entitled to an award of its reasonable attorney fees and costs incurred in such

proceeding, including on appeal to the highest authority.

7.7 Entire Agreement. This is the entire agreement between the parties with respect to the subject matter of this Agreement. It supersedes all prior or contemporaneous agreements, understandings, or representations with respect to BARBOOKS™. This Agreement may not be modified or amended except in a writing signed by both parties. Any preprinted terms on your purchase order are expressly rejected by OSB and shall be given no force or effect.