

# Terms of Service

NWOPS, LLC ("NWOPS") is pleased to offer you the ability to examine Texas pending drilling permits ("Service"). Railroad Commission of Texas ("RRC") supplies the data. We are not affiliated with RRC. We make the Service available to you through our proprietary software applications ("Applications") designed for a variety of Internet-enabled devices, including smart phones, tablets, and personal computers (collectively, "Devices"). Portions of the Service may also be available to you through our websites at [www.drillbaby.com](http://www.drillbaby.com) and [www.nwops.io](http://www.nwops.io) ("Websites").

We provide the Service, the Applications, and the Websites to you subject to the following terms and conditions, which are referred to in our Privacy Policy, on the Websites, and on the Applications as the "Terms of Service". These Terms of Service include by reference our Privacy Policy and our Acceptable Use Policy (collectively, this "Agreement"). "Service" as used in this Agreement includes the Applications and the Websites, except where those terms are used separately. By accessing and using the Service in any manner, you acknowledge that you have read, understood, and agree to be legally bound by this Agreement. We may update this Agreement from time to time without notice to you. Your use of the Service after the changes to this Agreement are posted on the Website or made available to you through your Device(s) shall constitute your acceptance of the updated Agreement. If you do not agree to any of the terms and conditions in this Terms of Service or any provisions in our Privacy Policy or Acceptable Use Policy, as they may be updated from time to time, then you may not access or use the Service.

THE SECTIONS BELOW TITLED "BINDING ARBITRATION" AND "CLASS ACTION WAIVER" CONTAIN A BINDING ARBITRATION AGREEMENT AND CLASS ACTION WAIVER. THEY AFFECT YOUR LEGAL RIGHTS. PLEASE READ THEM.

## **1. AGE RESTRICTION**

The Services is available for individuals aged 13 years or older. If you are 13 or older, but under the age of majority in your jurisdiction, you should review this Agreement with your parent or guardian to make sure that you and your parent or guardian understand it. If we discover or believe that you are underage, we will suspend your access to the Service and will reinstate your access only upon our confirmation of consent from your parent or guardian.

## **2. REGISTRATION**

In order to use some parts of our Service, you need to register with us. During the registration process, we will ask you to create an account, which includes a sign-in name ("Sign-In Name"), a password ("Password"), and perhaps certain additional information that will assist in authenticating your identity when you log-in in the future ("Unique Identifiers"). When creating your account, you must provide true, accurate, current, and complete information. Each Sign-In Name and corresponding Password can be used by only one user. You are solely responsible for the confidentiality and use of your Sign-In Name, Password, and Unique Identifiers, as well as for any use, misuse, or communications entered through the Service using one or more of them. You agree to inform us promptly of any need to deactivate a Password or Sign-In Name or change any Unique Identifier. We reserve the right to delete or change your Password, Sign-In Name, or Unique Identifier at any time and for any reason. NWOPS will not be liable for any loss or damage caused by any unauthorized use of your account.

### **3. LICENSES**

Subject to your compliance with all of the terms and conditions in this Agreement, NWOPS grants to you a personal, non-exclusive, limited, revocable, non sub-licensable, and non-transferable license to (i) access, download and install the Applications on your Device(s) solely for the purpose of using the Service, (ii) use any other features made available through the Service in accordance with the functionality of those features and this Agreement.

Our license to you, and your use of the Service, are expressly conditioned on your adherence to our Acceptable Use Policy, which is attached as Schedule A to these Terms of Service, and to your acceptance of our Privacy Policy.

### **4. INTELLECTUAL PROPERTY**

The Service contains material, such as software, text, graphics, images, and other material provided by or on behalf of NWOPS (collectively, the "Content"). The Content presented to you as part of the Service is owned by NWOPS or by its licensors and is protected by intellectual property rights under both United States and foreign laws. Except as expressly permitted under this Agreement, no right, title, or interest in or to any Content is transferred to you. The trademarks, service marks, logos, product names and company names (the "Trademarks") used and displayed on or through the Service are registered and unregistered trademarks or service marks of NWOPS and its licensors. Nothing on the Service or in this Agreement shall be construed as granting, by implication, estoppel, or otherwise, any license or right to use the Trademarks, without our prior written permission specific for each such use. All goodwill generated from the use of the Trademarks inures to the benefit of NWOPS and its licensors, as applicable.

Elements of the Service are protected by trade dress, trademark, unfair competition, and other state and federal laws and may not be copied or imitated, in whole or in part, by any means, including but not limited to the use of framing or mirrors.

### **5. COMMUNICATIONS WITH US**

With respect to any communications you send to us, including, but not limited to, feedback, questions, comments, suggestions, and the like, we shall be free to use any ideas, concepts, know-how, or techniques contained in your communications for any purpose whatsoever, including, but not limited to, the development, production, and marketing of products and services that incorporate such information without compensation to you.

### **6. NO WARRANTIES; LIMITATION OF LIABILITY**

YOU ACKNOWLEDGE THAT NWOPS DOES NOT REPRESENT OR WARRANT THAT THE CONTENT AND ANY OTHER DATA OR INFORMATION PROVIDED THROUGH THE SERVICE WILL BE ACCURATE OR COMPLETE.

YOU ALSO ACKNOWLEDGE THAT THE SERVICE MAY CONTAIN BUGS, ERRORS, AND OTHER PROBLEMS THAT COULD CAUSE THE SERVICE TO BE UNAVAILABLE OR TO FAIL TO DELIVER DATA OR OTHERWISE BE UNRELIABLE. CONSEQUENTLY, THE SERVICE AND THE CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OF ANY KIND, INCLUDING THAT THE SERVICE OR THE CONTENT WILL BE ERROR-FREE OR UNINTERRUPTED OR THAT THE SERVICE, ITS SERVERS, OR THE CONTENT ARE OR WILL BE SECURE OR FREE OF COMPUTER VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND FITNESS FOR PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

IN NO EVENT WILL NWOPS, ITS AFFILIATES OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR (I) ANY INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST REVENUE OR ANTICIPATED SAVINGS, LOST DATA, LOST GOODWILL, OR BUSINESS INTERRUPTION ARISING OUT OF THIS AGREEMENT OR RESULTING FROM THE USE OR INABILITY TO ACCESS AND USE THE SERVICE OR THE CONTENT, REGARDLESS OF THE CAUSE OF ACTION (INCLUDING TORT AND BREACH OF CONTRACT) EVEN IF FORESEEABLE, AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) ANY DIRECT DAMAGES ARISING OUT OF THIS AGREEMENT OR THAT YOU MAY SUFFER AS A RESULT OF YOUR USE OF THE SERVICE OR THE CONTENT, EXCEEDING, IN THE AGGREGATE, THE HIGHER OF FIFTY DOLLARS (\$50) OR THE TOTAL FEES THAT YOU HAVE PAID TO US WITHIN THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO ANY CLAIM FOR SUCH DAMAGES.

NOTHING IN THIS AGREEMENT SHALL AFFECT ANY NON WAIVABLE STATUTORY RIGHTS THAT APPLY TO YOU.

## **7. EXTERNAL SITES**

The Service may contain links to third-party websites or may otherwise allow you to gain access to third-party websites ("External Sites"). These links and/or access to such External Sites are provided solely as a convenience to you and not as an endorsement by us of the content on such External Sites. The content of such External Sites is developed and provided by others. You should contact the site administrator or webmaster for those External Sites if you have any concerns regarding such links or any content located on such External Sites. We are not responsible for the content of any linked External Sites and do not make any representations regarding the content or accuracy of materials on such External Sites. You should take precautions when downloading files from all websites to protect your Devices from viruses and other destructive programs. If you decide to access linked External Sites, you do so at your own risk.

## **8. INDEMNIFICATION**

You agree to defend, indemnify, and hold us and our officers, directors, employees, successors, agents, and assigns harmless from and against any claims, actions, or demands, including, without limitation, reasonable legal and accounting fees, arising or resulting from your breach of this Agreement and/or your misuse of the Service. We shall provide notice to you of any such claim, suit, or proceeding. We reserve the right, at your expense, to assume the exclusive defense and control of any matter that is subject to indemnification under this section. In such case, you agree to cooperate with any reasonable requests assisting our defense of such matter.

## **9. COMPLIANCE WITH APPLICABLE LAWS**

The Service is based in the United States. We make no claims concerning whether the Service may be used or are appropriate for use outside of the United States or for your particular industry, company, or intended use. Your access to and use of the Service is solely at your own risk. You are solely responsible for ensuring compliance with the applicable laws of your specific jurisdiction and industry.

## **10. TERMINATION OF THE AGREEMENT**

We reserve the right, in our sole discretion, to restrict, suspend, or terminate this Agreement and your access to all or any part of the Service, at any time and for any reason without prior notice or liability. We reserve the right to change, suspend, or discontinue all or any part of the Service at any time without prior notice or liability. You may terminate this Agreement by contacting us at admin@nwops.io. Upon any termination of this Agreement, the licenses granted above shall terminate, and you shall have no right to continue to use the Service. Sections 4-16 shall survive the termination of this Agreement.

## **11. DIGITAL MILLENNIUM COPYRIGHT ACT**

NWOPS respects the intellectual property rights of others, and we expect our users to do the same. We will review all claims of copyright infringement received and remove any Content posted or distributed in violation of applicable copyright laws.

If you believe that your work has been copied on or via the Service in a way that constitutes copyright infringement, please provide our agent with notice in accordance with the requirements of the DMCA, including: (i) a description of the copyrighted work that has been infringed and the specific location where such work is located; (ii) a description of the location of the original or an authorized copy of the copyrighted work; (iii) your address, telephone number and email address; (iv) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; (v) a statement by you, made under penalty of perjury, that the information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf; and (vi) an electronic or physical signature of the owner of the copyright or the person authorized to act on behalf of the owner of the copyright interest.

## **12. CONTROLLING LAW**

This Agreement and any action related thereto will be governed by the laws of the State of Oregon without regard to its conflict of laws provisions.

## **13. BINDING ARBITRATION**

In the event of a dispute arising under or relating to this Agreement, the Content, or the Service (each, a "Dispute"), either party may elect to finally and exclusively resolve the dispute by binding arbitration governed by the Federal Arbitration Act ("FAA"). Any election to arbitrate, at any time, shall be final and binding on the other party. IF EITHER PARTY CHOOSES ARBITRATION, NEITHER PARTY SHALL HAVE THE RIGHT TO LITIGATE SUCH CLAIM IN COURT OR TO HAVE A JURY TRIAL, EXCEPT EITHER PARTY MAY BRING ITS CLAIM IN ITS LOCAL SMALL CLAIMS COURT, IF PERMITTED BY THAT SMALL CLAIMS COURT'S RULES AND IF WITHIN SUCH COURT'S JURISDICTION. ARBITRATION IS DIFFERENT FROM COURT, AND DISCOVERY AND APPEAL RIGHTS MAY ALSO BE LIMITED IN ARBITRATION. All disputes will be resolved before a neutral arbitrator selected jointly by the parties, whose decision will be final, except for a limited right of appeal under the FAA. The arbitration shall be commenced and conducted by JAMS pursuant to its then current Comprehensive Arbitration

Rules and Procedures and in accordance with the Expedited Procedures in those rules, or, where appropriate, pursuant to JAMS' Streamlined Arbitration Rules and Procedures. All applicable JAMS' rules and procedures are available at the JAMS website [www.jamsadr.com](http://www.jamsadr.com). Each party will be responsible for paying any JAMS filing, administrative, and arbitrator fees in accordance with JAMS rules. Judgment on the arbitrator's award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitration may be conducted in person, through the submission of documents, by phone, or online. If conducted in person, the arbitration shall take place in the United States county where you reside. The parties may litigate in court to compel arbitration, to stay a proceeding pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator. The parties shall cooperate in good faith in the voluntary and informal exchange of all non-privileged documents and other information (including electronically stored information) relevant to the Dispute immediately after commencement of the arbitration. As set forth in Section 16 below, nothing in this Agreement will prevent us from seeking injunctive relief in any court of competent jurisdiction as necessary to protect our proprietary interests.

#### **14. CLASS ACTION WAIVER**

You agree that any arbitration or proceeding shall be limited to the Dispute between us and you individually. To the full extent permitted by law, (i) no arbitration or proceeding shall be joined with any other; (ii) there is no right or authority for any Dispute to be arbitrated or resolved on a class action-basis or to utilize class action procedures; and (iii) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST US ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

#### **15. EQUITABLE RELIEF**

You acknowledge and agree that in the event of a breach or threatened violation of our intellectual property rights and confidential and proprietary information by you, we will suffer irreparable harm and will therefore be entitled to injunctive relief to enforce this Agreement. We may, without waiving any other remedies under this Agreement, seek from any court having jurisdiction any interim, equitable, provisional, or injunctive relief that is necessary to protect our rights and property pending the outcome of the arbitration referenced above. You hereby irrevocably and unconditionally consent to the personal and subject matter jurisdiction of the federal and state courts in the State of Oregon for purposes of any such action by us.

#### **16. MISCELLANEOUS**

Our failure to act on or enforce any provision of the Agreement shall not be construed as a waiver of that provision or any other provision in this Agreement. No waiver shall be effective against us unless made in writing, and no such waiver shall be construed as a waiver in any other or subsequent instance. Except as expressly agreed by us and you in writing, this Agreement, including Schedule A and our Privacy Policy, constitutes the entire Agreement between you and us with respect to the subject matter, and supersedes all previous or contemporaneous agreements, whether written or oral, between the parties with respect to the subject matter. If any provision of this Agreement is deemed by a competent court or arbitrator to be invalid, void, or unenforceable, the parties agree that the court or arbitrator should endeavor to give effect to the parties' intentions as reflected in the applicable provision, and any unenforceable provision shall be deemed severable and shall not affect the validity and enforceability of any remaining provision. The section headings are provided merely for

convenience and shall not be given any legal import. This Agreement will inure to the benefit of our successors, assigns, licensees, and sublicensees.

# Schedule A

## NWOPS's Acceptable Use Policy ("AUP")

This AUP explains certain terms in the Agreement and further defines your rights and obligations when utilizing the Service. This AUP may be revised from time to time, without any obligation to notify you of the same. Your use of Service after changes to this AUP are made available through the Service shall constitute your acceptance of any new or additional terms.

When you obtain information via the Service, you must keep in mind that we do not guarantee the accuracy and quality of the information that you may acquire. For this reason, you must exercise your best judgment in relying on information obtained from the Service, and always consult original RRC filing, and licensed professionals. Because we present data provided by RRC can have mistakes and entry errors, NWOPS shall not be responsible for injury, financial or any other damages to you that results from inaccurate data.

You violate this AUP and the Agreement when you engage in or facilitate the following prohibited activities:

1. **Illegal or Unauthorized Access to Other Computers or Networks.** Using the Service to access illegally or without authorization computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (i.e. port scan, stealth scan, or other information gathering activity).
2. **Market Research.** Using the Service to collect any market research for a competing business.
3. **Interference.** Taking any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our technical infrastructure; using automated means, including spiders, robots, crawlers, data mining tools, or the like to download or scrape data from the Websites, except for Internet search engines (e.g., Google) and non-commercial public archives (e.g., archive.org) that comply with our robots.txt file; or interfering with or attempting to interrupt the proper operation of the Service through the use of any virus, device, information collection or transmission mechanism, software or routine, or access or attempt to gain access to any data, files, or passwords related to the Service through hacking, password or data mining, or any other means.
4. **Other Activities.** Using the Service to engage in activities, whether lawful or unlawful, that NWOPS determines to be harmful to our users, operations, reputation, goodwill, or customer relations.

Any complaints about a user's violation of this AUP should be sent to [admin@nwops.io](mailto:admin@nwops.io).