

## **Mixnet mxCourt User Agreement – Last Revised July 24, 2017**

mxCourt (“Service” or “Site” or “mxCourt”) is provided by Mixnet Corporation (“Mixnet”), a Virginia corporation owning and operating the Service. All users (“User” or “Users”) are subject to this User Agreement (“Agreement”). Any use of the Service bounds a User to this Agreement. If a User objects to any portion of this Agreement, a User must immediately discontinue the use of the Site. Mixnet reserves the right to enforce these terms via any available lawful means, including but not limited to, civil litigation and referral to applicable authorities for criminal prosecution.

THIS IS A LEGAL AGREEMENT BETWEEN YOU AND MIXNET. ALL USERS OF MXCOURT SHOULD CAREFULLY REVIEW THESE TERMS, AS THEY CONTAIN IMPORTANT INFORMATION ABOUT USERS’ LEGAL RIGHTS AND RESPONSIBILITIES.

Mixnet reserves the right to change these Terms from time to time consistent with applicable laws and principles. These changes will be effective as of the date we post the revised version of this Service. Your continued use of this application after we have posted the revised Terms constitutes your agreement to be bound by the revised Terms of Use. If at any time you choose not to accept these Terms of Use, you should not use this Service.

### **A. Definitions**

1. “User” refers to any Internet visitor of mxCourt and its related Sites, namely a visitor that seeks to access or file electronic documents.
2. “Submitter” refers to a User that uses the mxCourt API or any other automated process to provide data to mxCourt.
3. “myCourt API” refers to the application program interface for mxCourt, a set of software functions, objects, and other instructions by which a User may provide data to the Service.
4. “Court” refers to any judicial body that allows the Service to supply electronic filing services.
5. “mxCourt API” refers to Application Program Interface that Mixnet makes available to a Submitter.
6. “Transaction” means any Court Service for which a price is posted, namely electronic filing services.
7. “Content” means all information found on the Service, including text, site design, logos, proprietary marks, graphic files, audio clips, video clips, icons, and images, as well as the selection, assembly and arrangement thereof. Such “Content” may be owned by the Site or any third party.
8. “Service” or “Site” or “mxCourt” shall refer to computer systems and communication equipment used for hosting, facilitating, and providing Users access to the Service.
9. “Court Data” refers to any information submitted by a User for the purpose of enabling the electronic filing of any User documents/instruments to any of the participating Courts.

## B. Registration, User Data and User Accounts

1. **mxCourt Registration Eligibility.** By using the Service, you agree to abide by this Agreement. By registering with the Site, User represents and warrants that the User's registration is in compliance with all laws, rules and regulations applicable to the User. Mixnet reserves the right to prevent or cancel a User's registration for any reason.
2. **User Account Registration Data.** Any information provided to the Site by a User must be accurate, current and complete. False identities, screen names or impersonation of third parties is forbidden. Users shall update information promptly. Users agree to maintain the security of their respective usernames, passwords and other personally identifiable information on the Site. Users are responsible for any activities and actions undertaken via the User's account on the Site.
3. **User Account Registration Verification.** Mixnet may, in its sole discretion, require additional verification of a User's identity, credit or other background information for a User to continue accessing the Site. Upon request, a User shall provide Mixnet with additional information that may be requested.
4. **User Account Responsibility and Security.** The owner of a User Account is solely responsible for all activities occurring on the Site under the applicable User Account.
5. **User Account Suspension, Cancellation and Termination.** Mixnet reserves the right, in its sole discretion, to suspend or terminate the account of any User for any reason. The Site may similarly prohibit User from accessing the Site or any portion of the Service at its sole discretion. Any User account that is suspended, terminated or cancelled will continue to be liable for all charges incurred while using the Site.
  - a. User agrees to maintain the confidentiality of the applicable User account and password.
  - b. User is responsible for all activities that occur under the applicable User account, including, but not limited to, any third party use of an applicable User Account.
  - c. User will not permit any unauthorized third party to access the Site via the User's account.
  - d. User agrees that Mixnet is not responsible for any User loss that may occur as a result of any unauthorized use of a User account or password.
  - e. User shall not employ the Site for any purpose that is unlawful, fraudulent or contrary to this Agreement.
  - f. User agrees to cooperate with any Mixnet investigation into any unusual, fraudulent or unlawful activity that may have occurred on the Site.
  - g. User agrees not to create obscene, defamatory or hateful user names.
6. **Dormant User Account Maintenance Fee.** Mixnet reserves the right to designate an account as inactive for all User accounts that are dormant for a period of more than 12 months.

## C. Site and Service

1. **Service Generally.** The Service will enable a User to manage, index and upload the Court Data through the Website. The Service will enable Court Data to be electronically filed with the appropriate Court, as the User may select. The Service also allows a User to view and manage Court Data via the Service.
2. **No Legal Advice Provided.** Mixnet CANNOT AND WILL NOT PROVIDE LEGAL ADVICE. While Mixnet may provide technical support related to the electronic filing, you should seek legal counsel from a licensed attorney in your state. Such assistance will not include legal advice and should not be relied upon for any purpose other than filing or viewing documents via the Site. The Service does not audit the substance of any filing or other Court Data offered by any Court or any User.
3. **Limitations of Service.** Mixnet is a “provider . . . of an interactive computer service” under 47 U.S.C. § 230 and Mixnet acts solely as a technological intermediary between the Court and Users. Mixnet does not produce, provide or control Court Data. Mixnet does not evaluate or control information shared between Users and a Court. Mixnet does not provide any content, product or service other than the technical services that allow Users to view or file electronic documents with the court. Mixnet maintains no editorial or other control concerning content provided by Users to the Court. The Service may not be able to accept filings that do not meet certain technical or recording requirements.
4. **Data Storage.** Court Data provided by Users is stored on secure servers. The Service will provide access to all User Court Data, including documents, receipts and filing statuses, for a period of five years from the date of the initial filing via the Service. Backup systems help protect against data loss, but such retention and related protections cannot be guaranteed.
5. **Data Disclosures.** By using the Service to manage and file Court Data you consent to the disclosure to the participating Courts of all information pertaining to your use of the Service, including your IP address, email address and other pertinent information.
  - a. The Site reserves the right to disclose User information provided to the Service, without your consent, in response to any court order, subpoena, search warrant or other inquiry or request from governmental or regulatory authorities, or to protect against fraud or other criminal activities.
6. **Online Communications.** The User, Court and Service will necessarily communicate via the Internet. The Service will maintain reasonable efforts to maintain the security and sanctity of communications between (a) the Service and the Court and (b) the Court and the Service. Mixnet has no control over any third-party unauthorized interception or attempted interception of these communications. By using the Service, I consent to the use of Internet based communication devices.
7. **Independent Court.** Mixnet does not evaluate, provide, produce or control Court Data or services, or information or exchanges between Users and Courts, in any manner.
  - a. Users are aware that a Court reserves the right to accept or reject a filing or Court Data upon review of the substance of the filing. Such powers are expressly reserved by the Court.

- b. Any acceptance or rejection of a filing by a Court is not under the Service's control.
  - c. Mixnet does not verify, guarantee or make any representations regarding the identity or qualifications of any User or Court.
  - d. Mixnet does not make editorial or managerial decisions concerning User or Court Data and assumes no responsibility for any User's compliance with laws or regulations concerning the content of filings.
  - e. Mixnet does not control and is not responsible for the truth, accuracy, completeness, safety, timeliness, quality, appropriateness, legality or applicability of anything said or written by any User or the Court. This includes, but is not limited to, electronic filings between Users and the Court.
  - f. Electronic documents found on the Site do not imply that Mixnet endorses, recommends, verifies or evaluates any filing or electronic document. No content on the Site shall be considered a referral, endorsement, recommendation or guarantee of any kind.
  - g. Upon filing and acceptance by a Court, filed documents or other Court Data will typically become part of a Court's public record of proceedings. User is aware that any information provided to a Court via the Service may become public, and such information should not be considered confidential.
8. **Submitter provisions.** A submitter will use the Service in a manner consistent with the reasonable access and use of Mixnet's Internet resources and those provided through the Service. Submitter acknowledges that data upload through the mxCourt API has natural bandwidth and other resource limitations. Submitter will not submit or attempt to submit more than 1GB of data in a day. Submitter will not make repeated submission requests designed, intended to, or which actually results in server overload or a denial of service attack. Submitter will use the mxCourt API only for the purpose of providing data intended to be used as a part of a normal commercial transaction, and only in a lawful manner. Submitter will pay for all indirect, consequential, and other damages caused as a breach of this Agreement, including this provision.

#### **D. Content and Intellectual Property**

1. **Site Ownership.** The Service and Site are owned by Mixnet or its corporate parents. Most aspects of the Service and Site, including but not limited to, all methods, processes, content, formats, domain names, designs, phone numbers, toll free numbers and number extensions are the exclusive property of Mixnet. Other rights, including, but not limited to, all inventions, trade secrets, patents, copyrights, trademarks and other intellectual property rights are the exclusive property of Mixnet . Mixnet does not confer any rights to any User, either expressly or by implication, except as otherwise provided herein.
2. **Prohibition on Infringement.** No User shall use the Site to infringe upon any copyright works, trademarks, trade secrets, or other intellectual property rights of any third party.

3. **User Communications.** Users acknowledge that communications with Mixnet, including, but not limited to, comments, suggestions, questions, and other information or communications about the Service are not confidential. Such communications shall become the property of Mixnet. In sending the Site any information or material, you grant Mixnet an unrestricted, irrevocable license to copy, reproduce, publish, upload, post, transmit, distribute, publicly display, perform, modify, create derivative works from, and otherwise freely use, those materials or information without User compensation or acknowledgment.
4. **Limited License to Access Content.** The Content appearing on mxCourt may be subject to copyright protection. Applicable copyrights are the intellectual property of Mixnet, its Users, its licensors or other third parties with all rights reserved.
  - a. Content on mxCourt may not be copied, reproduced, republished, uploaded, posted, transmitted, distributed or otherwise used for the creation of derivative works without the express written consent of Mixnet.
  - b. Users are granted a non-exclusive, non-transferable, limited permission to access and display the Content appearing on mxCourt on the User's client for purposes of using the Service subject to this Agreement.
  - c. Some Content appearing on mxCourt, including, but not limited to, third party content, software and related resources, may be subject to their own terms, conditions, licenses and notices. Such Content shall be governed by their own terms and conditions as may or may not be provided.
  - d. All licenses provided to Users by Mixnet are subject to revocation by the Service at any time without notice and with or without cause. Any use of the Service other than specifically provided in this Agreement or as expressly granted by Mixnet is strictly prohibited and shall immediately terminate without notice any license granted by this Agreement.
5. **Trademarks, Service Marks and Other Intellectual Property.** Content appearing on mxCourt may contain trademarks, service marks, trade names and trade dress owned by Mixnet. These marks and names are subject to applicable trademark laws in the United States and internationally, and may not be used in connection with any service or product that is likely to violate applicable trademark laws unless such use is expressly granted by Mixnet. Unless explicitly stated, nothing in this Agreement shall be construed as a grant of intellectual property rights under any legal theory.
6. **No Contest.** User acknowledges that the Content is protected under law, including (without limitation) United States of America and international copyright laws and treaties. User shall not contest or aid in contesting the ownership or validity of any of the copyrights, trademarks, service marks and trade secrets of the Service.
7. **Third Party Content and Services.** The Content available via the Service may include access to third party sites, services and content provided by other Users that is completely independent of mxCourt. These third party resources may include, but are not limited to, third party web sites, software, products, services, networks and similar resources. Inclusion of third party resources on mxCourt does not imply endorsement or approval of any particular resource.

8. **Linking to the Site.** Mixnet generally licenses third parties to provide links to the Site.
  - a. Links to the Site must not alter the visual appearance or content of the Site, misrepresent a relationship with Mixnet, imply that the link is an endorsement or approval of the linking site or its related products and services by Mixnet, present false information about Mixnet or otherwise damage the reputation and goodwill of Mixnet.
  - b. All links to mxCourt are subject to the Site's continuing permission to maintain such links. Mixnet reserves the right to terminate permission to link to the Site at any time and third parties that link to the Site are obligated to immediately remove all links to the Site upon the request of Mixnet.
9. **Claims of Copyright Infringement.** Mixnet prohibits copyright infringement on its Site. Pursuant to the Digital Millennium Copyright Act ("DMCA"), Mixnet provides the following contact information for receipt of infringement notices: <http://mixnet.com/contact/> or via postal mail at Mixnet Corp. PO Box 11431, Blacksburg, VA 24062-1431. Any notice of claimed infringement must be a written communication that includes the following under 17 U.S.C. §512(c)(3):
  - a. A physical or electronic signature of the person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
  - b. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works.
  - c. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
  - d. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number and, if available, an electronic mail address at which the complaining party may be contacted.
  - e. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent or the law.
  - f. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
  - g. Upon receipt of a notice of claimed infringement, Mixnet will remove or disable access to the allegedly infringing material and promptly notify the alleged infringer of the claim. Subsequent proceedings after initial notification are governed by the DMCA. Pursuant to the DMCA and other applicable law, Mixnet reserves the right to terminate any infringer, particularly repeat infringers, for any reason in its sole discretion.
10. **Claims of Trademark Infringement.** Mixnet prohibits trademark infringement on its Site. Mixnet provides the following contact information for receipt of infringement notices:

<http://mixnet.com/contact/> or via postal mail at Mixnet Corp. PO Box 11431, Blacksburg, VA 24062-1431.

#### **E. User's Consumption of Services on the Site**

1. **Financial Responsibility.** User agrees to pay for all filings submitted using the applicable User account and password.
2. **Applicable Rates.** Fees charged for the Service shall be published on the Site. Fees are partially or fully established and controlled by each participating Court. Any filing fee payable to the Service is subject to Court review.
3. **Billing.** Each User expressly authorizes the Court to collect a fee for each Transaction, regardless of quality or completeness.
4. **Service Restrictions.** User agrees to the following restrictions as a condition of employing the Service:
  - a. No User shall attempt to circumvent the Site, its payment process or its communications process by any means.
  - b. No User shall engage in any activity that would be considered harassing to any other User or the Court.
  - c. No User shall make any effort to obtain unauthorized access to any portion of the Site that is not intended for the User.
  - d. No User shall make any communication to other Users or the Courts related to any third-party economic interest, including, but not limited to, promotions of other websites, businesses or interests.
  - e. Members who initiate and receive Court Services do so entirely at their own risk.

#### **F. Disclaimer of Warranties and Limitation of Liability**

1. **Disclaimers.** Mixnet attempts to ensure accuracy of information on the Site, but cannot guarantee that any content is entirely correct, current or complete. The Site may contain technical inaccuracies or typographical errors. The Site may occasionally be temporarily unavailable for maintenance and related reasons. USE OF THIS SITE IS AT A USER'S SOLE RISK. ALL CONTENT AND SERVICES ARE PROVIDED "AS IS," WITH NO WARRANTIES OR GUARANTEES WHATSOEVER. MIXNET EXPRESSLY DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW ALL EXPRESS, IMPLIED, STATUTORY, AND OTHER WARRANTIES, GUARANTEES, OR REPRESENTATIONS, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON- INFRINGEMENT OF PROPRIETARY AND INTELLECTUAL PROPERTY RIGHTS. WITHOUT LIMITATION, MIXNET MAKES NO WARRANTY OR GUARANTEE THAT THIS SITE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR- FREE. YOU UNDERSTAND AND AGREE THAT ACCESSING MXCOURT IS AT THE USER'S OWN RISK AND

DISCRETION AND THAT THE USER IS SOLELY RESPONSIBLE FOR ANY DAMAGES THAT MAY RESULT, INCLUDING LOSS OF DATA OR DAMAGE TO YOUR COMPUTER SYSTEM. Some jurisdictions do not allow the exclusion of warranties, so the above exclusions may not apply to you.

2. **Limitation of Liability.** IN NO EVENT WILL MIXNET OR ITS DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO YOU OR ANY THIRD PERSON FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING FOR ANY LOST PROFITS OR LOST DATA ARISING FROM YOUR USE OF THE SITE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE SITE'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO THE SITE FOR THE SERVICE, BUT IN NO CASE WILL THE SITE'S LIABILITY TO YOU EXCEED THE FEES PAID FOR THE SERVICE. YOU ACKNOWLEDGE THAT IF NO FEES ARE PAID TO MXCOURT FOR THE SERVICE, YOU SHALL BE LIMITED TO INJUNCTIVE RELIEF ONLY, UNLESS OTHERWISE PERMITTED BY LAW, AND SHALL NOT BE ENTITLED TO DAMAGES OF ANY KIND FROM MIXNET, REGARDLESS OF THE CAUSE OF ACTION.
3. **Indemnity.** YOU FURTHER AGREE TO HOLD HARMLESS, DEFEND AND INDEMNIFY MIXNET, AND ITS EMPLOYEES, SUBSIDIARIES, AGENTS AND REPRESENTATIVES, FROM AND AGAINST ANY LIABILITY ARISING FROM OR IN ANY WAY RELATED TO YOUR USE OF THE SITE OR PROVISION OF COURT SERVICES, INCLUDING ANY LIABILITY OR EXPENSE ARISING FROM ALL CLAIMS, LOSSES, DAMAGES (ACTUAL AND CONSEQUENTIAL), SUITS, JUDGMENTS, LITIGATION COSTS AND ATTORNEY'S' FEES, OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, FORESEEABLE AND UNFORESEEABLE, DISCLOSED AND UNDISCLOSED.

## **G. Additional Agreement**

1. **Notices.** Any notice or other communication regarding this Agreement shall be written. Notices delivered to User electronically (including, without limitation, electronic mail) shall be deemed written notices for purposes of this Agreement. Notices sent to Mixnet shall be posted at <http://mixnet.com/contact/> or via postal mail at Mixnet Corp. PO Box 11431, Blacksburg, VA 24062-1431.
2. **Captions.** The headings and captions of this Agreement are inserted for convenience of reference and do not define, limit or describe the scope or intent of this Agreement or any particular section, paragraph, or provision.
3. **Pronouns/Gender.** Pronouns and nouns shall refer to the masculine, feminine, singular or plural as the context shall require.
4. **Governing Law.** This Site has been designed to comply with United States law. Mixnet does not guarantee that the content of the Site is appropriate for jurisdictions outside the



United States. All Users agree that by visiting or using the Site the laws of the Commonwealth of Virginia, without regard to principles of conflict of laws, will govern this Agreement.

5. **Dispute Resolution; Waiver of Jury.** Any dispute arising from or relating to these Terms will be litigated only in a court of competent jurisdiction for Montgomery County, Virginia. The parties each hereby irrevocably waive their respective right to a party, and will proceed with a bench trial in the litigation. Should Mixnet prevail it will recover all costs of the suit, including a reasonable attorney's fee.
6. **Assignment.** Except as expressly provided herein, no User shall have any right or ability to assign, transfer or sublicense any obligations or benefit under this Agreement without the express written consent of Mixnet.
7. **Severability.** If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of this Agreement will be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.
8. **Modifications.** mxCourt retains the right to modify this Agreement at any time, and changes shall become effective immediately upon publication. However, Mixnet will undertake to reasonably notify Users when modifications are made to this Agreement.
9. **Entire Agreement.** This Agreement, including additional policies incorporated by reference, constitute the entire agreement between Mixnet and a User.
10. **Waiver.** Mixnet's failure to act with respect to a breach of these terms by a User does not waive the Site's right to act with respect to subsequent or similar breaches.