

Market Drive™ Software and Associated Databases License Agreement

1.0 THE PARTIES

a) The parties to this License Agreement are Assessment Technologies of WI, LLC, (“Assessment Technologies”), the Customer, and the Authorized User. The “Customer” is the person or organization that acquires the Market Drive™ software for access to one or more Databases. The "Authorized User" is a user who is eligible, in accordance with the terms of this License Agreement, and is authorized by the Customer, to access the Databases within the Customer site. Paragraphs 1 through 6 of this License Agreement apply both to the Customer and any Authorized User, except where a particular term expressly refers only to one or the other. Paragraphs 7 through 13 of this License Agreement apply to the Customer only.

A Customer is NOT a person or organization that intends to develop, co-develop or assist in the development of a Competing Product. A Competing Product is a product used by Assessors to value property. Assessment Technologies does not agree to grant any license to such person or organization.

b) This License Agreement applies to Databases and Software. "Databases" is an electronic database or databases used by the Market Drive™ software, for which the Customer has paid the appropriate fee or has been authorized for a period of trial access. “Software” is Market Drive™ software owned by Assessment Technologies.

2.0 USER LICENSE

a) Assessment Technologies grants to the Customer a non-exclusive, non-transferable license to access the Databases by means of the Software.

b) The Databases, the Software, and the associated materials (other than portions in the public domain), including the Documentation, are the property of Assessment Technologies, and are protected by copyright laws, trade secret laws, and by international treaties.

c) No title is transferred by this License Agreement or by the payment of any fee.

d) The Customer's rights are limited to itself alone and do not extend to subsidiary or parent corporations, or to any other related or affiliated organizations.

e) The Customer may permit only Authorized Users to access the Databases.

f) Any rights not expressly granted in this License Agreement are reserved to Assessment Technologies.

g) The Customer agrees that they have no intention to develop, co-develop or assist in the development of a Competing Product.

2.05 COPYRIGHT

The Software, its Databases, and its Documentation are copyrighted. Particularly, the United States Copyright Office issued Certificate of Registration No. TX-5-392-65 for the Market Drive™ software and Databases. Assessment Technologies also owns common law copyrights in

additional components of the Software, and owns common law copyrights in all portions of the Software and Databases not explicitly or implicitly covered by Registration No. TX-5-392-65 or any additional copyright registrations that Assessment Technologies may acquire in the future. Except as herein provided, Customer may not copy, reproduce, publish, license, sublicense, or make available the Software, Source Code, Databases, or its Documentation to others, except that Customer may load the Software into a computer as an essential step in executing the Software. The Software contains confidential and proprietary information and trade secrets and Customer hereby agrees that all such information shall remain confidential and that Customer shall make no commercial or proprietary use of the Software or Databases, except in performing its duties as an Assessor. The Customer and any Authorized User hereby acknowledge (1) the originality of the Software and Databases; (2) compliance with all formalities to secure a statutory copyright; (3) Assessment Technologies' ownership of the copyright in the Software and Databases; and, (4) that the Software, Databases, and Documentation did not enter the public domain prior to publication pursuant to notice of copyright. The Customer and any Authorized User also acknowledge that the Databases feature an original selection and/or coordination and/or arrangement of facts, and that Assessment Technologies owns the Databases that include facts entered by the Customer or any Authorized User.

2.06 LEGALLY BINDING PROOF OF COPYRIGHT AND DATA OWNERSHIP

On December 23, 2002, The United States District Court, Eastern District of Wisconsin, issued a Decision and Order in the case "Assessment Technologies of WI, LLC. v. Wire Data, Inc.," Case No. 01-C-789. This Decision and Order is legally binding proof of Assessment Technologies' ownership rights in the Software, Databases, and data contained therein as described in this License Agreement. This court held that a request placed upon a Wisconsin municipality under the Wisconsin Open Records Law for the raw data contained within the Market Drive Databases would not be successful. "This court concludes that Market Drive has satisfied the degree of creativity needed to be protected by the copyright laws." *Id.* at 10. Although the raw data itself is not protected under copyright law, "[t]he copyright covers the 'entire text and compilation' of the Market Drive software." *Id.* at 6-7. "The [Market Drive] software is designed to benefit the end user, to enable that person to supply particular data, which will in turn be coordinated by the program and placed in a .mdb file. The user is then able to generate a variety of reports from this file. Each user supplies different data, but the data is then subjected to the same selection, coordination and arrangement scheme. Market Drive is entitled to receive copyright protection for the 2001 databases in question and for subsequent databases." *Id.* at 12. "It takes a similar creative effort to extract the requested data from storage as it did to initially place it there. For this effort, Market Drive has received a copyright. Translating and transferring a portion of the data to a hard copy report or to another disc constitutes the creation of a derivative work." *Id.* at 14. "Assessment Technologies owns the copyright and is protected as to Market Drive and its derivative works. This means that [Assessment Technologies] gets to decide whether or not a derivative work, such as requested by the defendant, will be produced." *Id.* at 15.

2.07 TRADE SECRET

The Customer and any Authorized User acknowledge that the architecture of the Databases feature trade secrets as defined in Wis.Stat. § 134.90(1)(c).

2.1 WHAT YOU MAY DO

You MAY:

- a) Use the Market Drive™ software interface and a Market Drive™ Database to perform all assessor functions.
- b) Publish property information on the internet at www.assessodata.org and www.assessodata.com using the web publishing feature built into the Market Drive™ software.
- c) Use the Market Drive™ Data Warehouse with any third party tool to perform all internal assessor functions. This includes integrating or joining the data in the Market Drive™ Data Warehouse with any external data such as but not limited to GIS data.
- d) Use the Data Distribution Tool built into the Market Drive™ software to extract public data and distribute the extracted public data to any third party.
- e) If you own the rights to use the Microsoft SQL Server version of the Market Drive™ software and also the rights to use the Data Distribution Tool built into the Market Drive™ software, you may also make searches of a Market Drive™ Database directly using whatever tool you want and copy property data from that database for any purpose. Property data is any data that appears on the Property Records Report or appears in the output of the Data Distribution Tool.
- f) Make one copy of the Software, for archival purposes only.

2.2 WHAT YOU MAY NOT DO

You may NOT:

- a) Decompile or reverse engineer the Software.
- b) Copy any portion of the Database design.
- c) Modify the structure of the database.
- d) Sell, give, or distribute in any way, shape, or form, the Market Drive™ software or any Market Drive Database™, without prior written approval from Assessment Technologies.
- e) Use the Market Drive™ Software or Databases to distribute property data to any non-licensed third party, except through the Data Distribution tool built into the Software.
- f) Publish property information obtained from Market Drive™, beyond what appears on the assessment roll, on the internet except through the web publishing feature built into the Market Drive™ software.
- g) Transfer, assign, or sublicense this License Agreement.
- h) Use any Databases in any way unless you have agreed to this License Agreement.
- i) Develop, co-develop or assist in developing a Competing Product or Service.

Any infraction of this License Agreement shall result in its termination as described on Section 11.0.

3.0 LIMITATION OF WARRANTIES AND LIABILITY

a) Assessment Technologies warrants to the Customer that any disc(s) containing Databases or Software provided hereunder is free from defects in materials and workmanship under normal use. Assessment Technologies will replace defective disc(s) free of charge upon their return to it.

- b) Assessment Technologies warrant and represent that they have the right to enter into this License Agreement and to deliver "as is" the Databases and the Software.
- c) The warranties expressed in Paragraphs 3.0 a), and b) above represent the entire liability of Assessment Technologies with respect to this License Agreement, and are in lieu of any and all other warranties, written or oral, express or implied, including without limitation warranties of fitness for a particular purpose, all of which Assessment Technologies disclaim.
- d) The presence in or absence from the Databases of any reference to information, data, events, research, or developments does not imply the specific existence or the non-existence thereof, nor does Assessment Technologies, claim comprehensiveness or the absence of errors.
- e) In view of the above, all liability is disclaimed for the accuracy, completeness, or functioning of the Databases.
- f) Assessment Technologies assumes no responsibility for the use of the Databases by the Customer or by any Authorized User, and Assessment Technologies shall not be liable for loss of profits, loss of use, or incidental, consequential, or exemplary damages as a result of such use, even if made expressly aware of the possibility thereof.
- g) In no event may any action be brought against Assessment Technologies arising out of this License Agreement without regard to when the Customer shall have learned of the defect, injury, or loss.
- h) Assessment Technologies shall not in any event be liable for more than the License fee paid (whether such liability arises from breach of warranty, breach of this License Agreement or otherwise, and whether in contract or in tort, including negligence and strict liability).
- i) The provisions of this Paragraph 3 will survive any termination of this License Agreement.

4.0 APPLICABLE LAW

This License Agreement will be governed and construed in accordance with the laws of the state of Wisconsin without giving effect to the principles of conflict of laws thereof and to the extent permitted by applicable law, all parties consent to the jurisdiction of courts situated in Wisconsin in any action arising under this License Agreement.

5.0 ENTIRE UNDERSTANDING

This License Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof. Without limiting the generality of the foregoing, it is expressly agreed that the terms of any prior Customer purchase order will be subject to the terms of this License Agreement and that any acceptance of a purchase order by Assessment Technologies will be for acknowledgment purposes only and none of the terms set forth in the purchase order will be binding upon Assessment Technologies. Any representation, promise, warranty, covenant, or undertaking not expressly set forth in this License Agreement shall not be deemed part of the License Agreement or otherwise legally effective.

6.0 SEVERABILITY

If a term or condition of this License Agreement is invalid or unenforceable, the remaining terms and conditions will remain in full force and effect.

7.0 SECURITY; AUDIT

The Customer will take reasonable action to restrict and control all use of the Databases and the Software, to enforce the restrictions contained in Paragraph 2, and to permit access only to Authorized Users. The Customer is responsible for the compliance by Authorized User with this License Agreement. The Customer grants Assessment Technologies the right to audit, during regular business hours, the use of the Databases and the Software to ensure compliance with this License Agreement, including without limitation, the number of simultaneous users permitted to access the Databases and the Software.

8.0 GUARANTEE

The Market Drive™ CAMA software comes with a 100% money back guarantee. Assessment Technologies will refund 100% of the money paid by the licensee for software if the licensee is not satisfied with the software after using it for one full year. To have used Market Drive™ for one full year, the licensee must use the software to produce the official assessment roll and produce all state mandated reports. The request for a refund under this satisfaction guarantee must be made before the license is renewed for the following year. Renewal of the license is not automatic and requires the licensee's approval.

In total, the maximum refund is amounts paid to Assessment Technologies for:

1. Licensed use of the Market Drive™ CAMA software for the first year (365 days).
2. Conversion of data to Market Drive.
3. Support.
4. Training.

No other amounts will be refunded, including amounts not paid to Assessment Technologies such as the cost of third party software.

9.0 TERM

This License Agreement applies to any use of Databases and Software during the period or periods for which a fee has been paid and during authorized trial periods. When the Customer accepts an updated version of this License Agreement, the updated version will replace the previous version. Assessment Technologies reserves the right to cease offering the Customer the right to renew the subscription.

10.0 UPDATES; UPDATED OR EXPIRED DISC(S)

The Customer will receive, or be given access to, the number of updates to the Databases for which the appropriate fee has been paid. In the case of updates to the Market Drive™ software, upon receipt of an updated CD-ROM disc, or upon termination of this License Agreement, the Customer is required to discontinue use of the outdated disc(s), or in the case of termination, the final disc, and promptly destroy such disc and erase all electronic storage. If the Customer fails to comply with any of its responsibilities under this License Agreement, the Customer may be denied future updates, without precluding Assessment Technologies from seeking any other remedies.

11.0 INDEMNIFICATION

Excluding claims arising out of or relating to the violation by Assessment Technologies, of any third-party copyright, trade secrets, or trademark, the Customer, to the extent permitted by applicable law, agrees to indemnify Assessment Technologies and hold them harmless from and against any and all claims of Authorized Users or other third parties arising out of or related to the use of the licensed materials, regardless whether such claims were foreseeable by Assessment Technologies. The provisions of this Paragraph 10 will survive any termination.

12.0 TERMINATION

If the Customer or Authorized User breaches any term of this License Agreement, Assessment Technologies, in addition to its other legal rights and remedies, may terminate the License granted hereunder on seven (7) days notice to Customer. Upon any termination for breach, the Customer will, unless otherwise agreed to in writing by Assessment Technologies, forthwith return to Assessment Technologies the Databases, the Software, and any and all Documentation pertaining thereto, and all copies thereof, and will erase all electronic storage of copies of the Databases and Software and search outputs or other electronic storage. Any termination, whether or not for breach, will not affect any obligation or liability of a party arising prior to termination, and the provisions of Paragraphs 10 and 11 will survive any termination.

13.0 FORFEITURE

The Customer agrees to forfeit their license one year prior to the Customer or Authorized User developing, co-developing or assisting in the development of a Competing Product. Forfeiture will have occurred when the customer has returned all products to Assessment Technologies along with a letter stating their intent to forfeit their license.

14.0 FORCE MAJEURE

Assessment Technologies will not be responsible for any delay or failure in performance resulting from any cause beyond their control.