STATE OF INDIANA

DIVISION OF
STATE COURT ADMINISTRATION

RANDALL T. SHEPARD, CHIEF JUSTICE

LILIA G. JUDSON, EXECUTIVE DIRECTOR
DAVID J. REMONDINI, CHIEF DEPUTY EXECUTIVE DIRECTOR

SUPREME COURT

30 SOUTH MERIDIAN STREET SUITE 500
INDIANAPOLIS, IN 46204-3568
(317) 232-2542
FAX (317) 233-6586
www.IN.gov/judiciary

May 30, 2008

Christina Anderson
Backgroundchecks.com
12770 Coit Road Suite 1150
Dallas, TX 75251

Dear Ms. Anderson:

Your request to obtain bulk distribution of data from Indiana trial courts has been approved by the Division of State Court Administration pursuant to Administrative Rule 9 (F), subject to the terms of the User Agreement for Bulk Distribution of Data. At this time, the Division has only approved the release of bulk records that are otherwise available to the public.

An executed copy of your user agreement is enclosed. This agreement will expire on January 31, 2009. Also enclosed is a distribution receipt form that must be completed and returned to this office within thirty (30) days of receiving bulk distribution of court records. If you have any questions, please contact staff attorney Kristin Donnelly-Miller of our office or me.

Sincerely,

James R. Walker

James R. Walker
Director of Trial Court Management

Enclosure

Indiana Supreme Court
Division of State Court Administration

DISTRIBUTION RECEIPT FORM FOR BULK DISTRIBUTION OF DATA OR COMPILED INFORMATION

This form is to be filed with the Division of State Court Administration within thirty (30) days of receipt of bulk distribution of court records.

Bulk Data Requested (i.e. docket information, court records, record of judgments and orders):

Date Received (if the distribution shall be continuous, indicate the first date the data was distributed):

Format of distributed data (i.e. electronic feed, paper copies, et cetera):

Expenses related to receipt of data distribution (indicate the amount paid for distribution of data):

$ _____ total _____ monthly _____ annual

Comments: _____

_____

_____

Indiana Supreme Court
Division of State Court Administration

USER AGREEMENT FOR BULK DISTRIBUTION OF DATA OR COMPILED INFORMATION NOT EXCLUDED FROM PUBLIC ACCESS UNDER ADMINISTRATIVE RULE 9

The Indiana Supreme Court through its Division of State Court Administration ("Division") and _**backgroundchecks.com**_ ("Requesting Party") hereby enter into this User Agreement for Bulk Distribution of Data or Compiled Information ("Agreement") for the purpose of establishing roles and responsibilities associated with the dissemination and use of Indiana court information pursuant to the provisions of Administrative Rule 9 of the Indiana Rules of Court ("Rule 9").

Recitals

A. Pursuant to Rule 9(F)(2), the Division is responsible for approving all requests for bulk distribution of Data or Compiled Information by Indiana Courts.

B. The Division reviews each request for bulk distribution to insure that the request is consistent with the purposes of Rule 9 and that each request is an appropriate use of public resources.

C. The Requesting Party seeks bulk distribution of Data or Compiled Information for its own use and understands that it must comply with the provisions of this Agreement.

D. The Division requires that the Requesting Party understand and agree to comply with certain restrictions on usage of the Data and Compiled Information.

E. The Requesting Party is not automatically entitled to the distribution of Data or Compiled Information of a county simply by the approval of this user agreement by the Division.

F. The Requesting Party will be required to pay reasonable costs incurred by the Division or by the responding Court/Clerk in responding to the request for bulk distribution.

G. The bulk distribution is limited to court records, even if the Requesting Party is seeking other information that is governed by other agencies' policies.

Agreement

1. **Definitions.** For the purpose of this Agreement, the following definitions shall apply:

   A. "Administrative Record" means any document, information, data, or other item created, collected, received, or maintained by a Court, Court agency, or Clerk of

Court pertaining to the administration of the judicial branch of government and not associated with any particular case or other agency.

B. "Agreement" means this User Agreement for Bulk Distribution of Data or Compiled Information, as well as any attachments or exhibits that may be affixed to this document or referenced within the agreement.

C. "Bulk Distribution" means the distribution of all, or a significant subset of Court Records not excluded from public access, in electronic form if possible, as is, and without modification or compilation.

D. "Case Record" means any document, information, data, or other item created, collected, received, or maintained by a Court, Court Agency or Clerk of Court in connection with a particular case, not otherwise governed by Rule 9(G) or (H).

E. "Clerk of Court" means the Clerk of the Indiana Supreme Court, Court of Appeals and Tax Court, the Clerk of a Circuit, Superior, Probate or County Court, the Clerk of a City or Town Court, and the Clerk of a Marion County Small Claims Court, including staff.

F. "Compiled Information" means information that is derived from the selection, aggregation or reformulation of all or a subset of all of the information from more than one individual Court Record in electronic form in response to the approved request for bulk distribution.

G. "Court" means the Indiana Supreme Court, Court of Appeals, Tax Court, and all Circuit, Superior, Probate, County, City, Town, or Small Claims Courts as well as any division, section, office, unit, or other entity of the Court, as well as any of the officers, officials, employees, volunteers, contractors, or others acting as representatives lawfully representing the Court.

H. "Court Records" means both Case Records and Administrative Records.

I. "Data" means any computer or machine-readable copy of Court Records provided by a Court to the Requesting Party.

J. "Subscriber" means a client or customer of Requesting Party to whom bulk Data or compiled information is provided or to whom access to bulk Data or Compiled Information is given.

K. "Public Access" means the process whereby a person may inspect and copy the information in a Court Record, not excluded by Rule 9(G) or (H).

L. "Requesting Party" includes the above-identified party and all entities and known names under which the business operates, all subsidiaries that will utilize the Data or Compiled Information provided and all names under which subsequent individual requests to counties shall be made.

2. **Grant**. Subject to permission from the counties or Courts identified below, the Division hereby grants to the Requesting Party restricted authorization to receive from such counties or Courts the Court Records specifically identified below for the Requesting Party's use in accordance with the terms and conditions contained herein.

Execution of this Agreement and approval of the Requesting Party's request by the Division do not create any mandatory obligation on the part of any county or Court to provide Court Records to the requesting Party. Pursuant to Administrative Rule 9(F), the counties or Courts identified below must determine on an individual basis whether resources are available to transfer the Court Records to the Requesting Party and whether fulfilling the request is an appropriate use of public resources. Counties and Courts must determine on an individual basis whether to assess a reasonable charge and the amount of that charge for providing the Court Records to the Requesting Party.

A. **Court Records sought**: All felony and misdemeanor records available for the below counties._____

B. **Requested Counties**: Bartholomew County, Brown County, Clay County, Clinton County, Daviess County, Decatur County, Delaware County, Delaware County - Muncie City Court, Elkhart County, Fountain County, Fulton County, Gibson County, Grant County, Grant County - Gas City Court, Hamilton County, Hancock County, Henry County, Howard County, Jay County, Johnson County, Kosciusko County, LaGrange County, Madison County, Madison County - Anderson City Court, Marshall County, Miami County, Monroe County, Montgomery County, Morgan County, Perry County, Pike County, Putnam County, Randolph County, Spencer County, Starke County, Sullivan County, Vigo County, Wabash County, Warrick County, Wayne County, Wells County, Wells County - Bluffton City Court, White County, Whitley County_____

3. **Rights and Interests**. All rights, title and interests in and to the Court Records including all intellectual property rights therein shall remain with the counties or Courts. The Requesting Party shall not gain any proprietary right to or interest in any Court Records provided to the Requesting Party as a result of this Agreement. All rights, title and interests in materials created by or for Requesting Party for use in connection with the Court Records including all intellectual property rights therein shall be owned by the Division and the Requesting Party hereby assigns such rights, title and interests to the Division. Those rights may not be transferred, assigned, or sold for any purpose to any person, corporation, partnership, association, or organization of any kind. The Requesting Party shall provide the Division with the names of all entities related in any way to the Requesting Party, including subsidiaries and affiliates, the names under which the Requesting Party is doing business and any other related entity names. The Requesting Party shall supplement this agreement within thirty (30) days of a change in the list of names provided to the Division as requested by this Section 3.

4. **Ongoing Data Scrubbing and Update Requirements**. The Requesting Party shall comply fully with Rule 9 and shall delete any Social Security Number, bank account number and any other confidential information that is inadvertently included in the Court Records and take other appropriate action to ensure that such confidential information is not disclosed to others. Upon notice, the Requesting Party shall comply with future orders to scrub data if they should arise.

5. **Restrictions on Use of Data.**

A. **Compliance With Authorities**. The Requesting Party shall comply with all current and, as subsequently amended, federal and state laws, court rules, administrative rules and policies governing, regulating, and/or relating to Court Records.

B. **Resale of Data**. Except as set forth in Section 6, the Requesting Party shall not reproduce, resell or otherwise distribute the Court Records or Data provided pursuant to this Agreement except in response to an inquiry from an individual for a Court Record or compilations or reports incidental to such individual Case Record as part of a service provided by Requesting Party. The Requesting Party shall not reconfigure the Court Records for subsequent bulk distributions.

C. **Policies for dissemination of Data**. The Requesting Party shall not disseminate Court Records to the public through remote electronic access such as the Internet or other electronic method unless the County Clerk first obtains approval from the Division under Trial Rule 77(K). In the event the Requesting Party plans to offer a service allowing others to review the Court Records and disseminate information in the Court Records to subscribers, customers, clients, or other third parties, a current copy of the Requesting Party's policies and information related to the dissemination shall be attached hereto as an Exhibit B. The Requesting Party is under an ongoing obligation to provide the Division with a copy of any updated Policy information within thirty (30) days of its modification.

6. **Bulk Transfer to Third Parties**. If the Requesting Party has submitted a request to transfer bulk Data or Compiled Information to third parties as part of the Request attached hereto as Exhibit C and such request has been approved by the Division as part of the Approval Letter attached hereto as Exhibit D, then the Requesting Party may transfer the bulk Data and Compiled Information it is authorized to receive under this Agreement to such third party subject to the terms of this Agreement. The Requesting Party shall supplement its Request in Exhibit C with a copy of any Agreement entered into with the third party subject to the execution of this Agreement. The Requesting Party may not transfer bulk Data or Compiled Information to any third party who has not signed a User Agreement with the Division. The Requesting Party may not charge the third party any more than the amount for time and material set forth in Exhibit C.

7. **Reporting Requirement.** Within thirty (30) days after the Requesting Party has received the first or only distribution of Court Records, the Requesting Party shall file with the Division of State Court Administration the Distribution Receipt Form, attached hereto as Exhibit E (Form TCM-AR9(F)-3).

8. **Disclosure Requirements.** The Requesting Party shall provide a disclosure statement similar to the one set forth below to each subscriber, customer, client or other third party who is provided access to the Court Records at the time any information from the Court Records is made available to them. At a minimum, the Requesting Party will ensure that a statement similar to the one set forth below, is displayed or provided to each subscriber, customer, client or other third party every time information from the Court Records is made available.

The data or information provided is based on information obtained from Indiana Courts on _____ (insert date most current version was created or in the case of data from multiple sources, the range of dates relevant to the displayed data). The Division of State Court Administration and the Indiana Courts and Clerks of Court: 1) Do not warrant that the information is accurate or complete; 2) Make no representations regarding the identity of any persons whose names appear in the information; and 3) Disclaim any liability for any damages resulting from the release or use of the information. The user should verify the information by personally consulting the official record maintained by the court in question.

9. **Audits.** The Division may, at its discretion, perform audits to verify compliance with the terms and conditions of this Agreement and the appropriate use of the Court Records. The Requesting Party shall cooperate with the Division in such audit.

   A. The Requesting Party agrees that the Division may include "control" or "salted" data as a portion of the Court Records as a means to ensure that any personally identifiable information is not used for commercial solicitation purposes or in an indiscriminate and reckless manner.

   B. The Requesting Party agrees to provide the Division with access, at no charge, to any database created using the Court Records for the purpose of monitoring and auditing contract compliance.

   C. The Requesting Party agrees to provide the Division with copies of the materials and information the Requesting Party provides its subscribers, customers, clients, or other third parties.

10. **Disclaimer of Warranties.** The Division, Courts, and Clerks of Court provide no warranties, express or implied and specifically disclaim without limitation any implied warranties of merchantability and fitness for a particular purpose, with respect to the Court Records or Data provided under this Agreement. All Court Records and Data provided under this Agreement is provided "As Is". The Division, Courts, and Clerks of Court further provide no warranties, express or implied, that the Court Records or Data is accurate, current, correct, or complete. It is expressly understood that it is the responsibility of the Requesting Party and/or its subscribers, customers, clients, or other third parties to whom the Court Records and Data is supplied to verify the Court Records and Data with the official information maintained by the Court having jurisdiction over the Court Records. **Reproductions of the Court Records or Data provided to the Requesting Party shall not be represented as a certified copy of the Court Record.**

11. **Limitation of Liability.** The Requesting Party acknowledges and accepts that the Court Records or Data may include errors or omissions and, therefore the Requesting Party agrees, that the Division, Courts, and Clerks of Court shall not be responsible or liable in any way whatsoever for the validity of the Court Records or Data. Specifically:

A. The Division, Courts, and Clerks of Court shall not be liable for any demand or claim, regardless of the form of action, for any damages resulting from the use by the Requesting Party or any of its subscribers, authors, clients or other third parties of the Court Records or Data.

B. The Division, Courts, and Clerks of Court shall not be liable for any demand or claim, regardless of form of action, for any damages arising from incorrect or incomplete information provided under this Agreement.

C. The Division, Courts, and Clerks of Court shall not be liable to the Requesting Party or any other party for any loss, including revenue, profits, time, goodwill, computer time, destruction of data, damages or any other indirect, special or consequential damage which may rise from the use, operation, distribution, transfer or modification of the Court Records or Data.

12. **Indemnification.** The Requesting Party shall defend, indemnify, and hold harmless the Division, Courts, and Clerks of Court, their respective employees and agents, and the State of Indiana from and against all claims, demands, suits, actions, judgments, damages, loss or risk of loss (including expenses, costs, and attorney fees) of any and every kind and by whomever and whenever alleged or asserted arising out of or related to any use, distribution or transfer made of the Court Records or Data by the Requesting Party or any of its subscribers, customers, clients or third parties.

13. **Assignment.** The Requesting Party may not, without the express written permission of the Division, transfer or assign: (i) this Agreement or any portion thereof; (ii) any right or benefit accruing to the Requesting Party under this Agreement; nor (iii) any claim arising under this Agreement.

14. **Termination and Renewal.**

A. **General**. Either the Division or the Requesting Party upon thirty (30) days written notice may terminate this Agreement without cause.

B. **Renewal**. This agreement expires on January 31, 2009, subject to renewal upon request by the Requesting Party. Renewal Requests may be sent to the Division after January 1, 2009. The renewal shall be for one calendar year. The Division will post the Renewal Form on the Supreme Court website at www.in.gov/judiciary/admin/forms/admin/index.html.

C. **Termination for Cause**. The Requesting Party shall be responsible and liable for any violations of this Agreement by the Requesting Party or any officer, employee, agent, subscriber, customer, or client of the Requesting Party or any third party to whom the Requesting Party has transferred bulk Data or Compiled Information and any such violation shall result in immediate termination of this agreement by the Division, at which time all Court Records and Data supplied to Requesting Party or any officer, employee or agent of the Requesting Party in any form will immediately be returned to the Division. In such event, the Requesting Party shall be liable for damages as authorized by law.

D. **Termination for Nonpayment.** The Division may immediately, without notice, terminate this Agreement for failure of Requesting Party to pay an invoice for costs associated with the preparation or transfer of the Court Records and Data outstanding longer than 30 days.

E. **Termination in Event of Assignment.** The Division in its sole discretion may terminate this Agreement without notice if the Requesting Party transfers or assigns, without the express written permission of the Division: (i) this Agreement or any portion thereof; (ii) any right or benefit accruing to the Requesting Party under this Agreement; nor (iii) any claim arising under this agreement.

F. **Termination in Event of Failure to Update.** The Requesting Party is under an ongoing obligation to provide the Division with a complete list of entities and names under which the Requesting Party conducts business. The Division, in its sole discretion, may terminate this Agreement if the Requesting Party does not update any of the information required to be submitted in the Request attached as Exhibit C.

15. **Attachments.** This Agreement incorporates by way of attachment the following:

A. A list of all known business entity names related to the Requesting Party that will participate in the use and dissemination of the Data provided as Exhibit A;

B. The company policies provided to the Requesting Party's subscribers, customers, clients or other third parties as Exhibit B;

C. The original Request provided to the Division from the Requesting Party as Exhibit C; and

D. The approval letter provided to the Requesting Party from the Division as Exhibit D.

E. The Distribution Receipt Forms (Form TCM-AR9(F)-3).

These Exhibits may be amended or modified and are required to be updated by the Requesting Party in accordance with the terms of this Agreement. The amendments and or modifications shall be incorporated into this Agreement by reference on the attachments.

The undersigned individuals represent that they have the authority to execute this Agreement on behalf of their respective parties and execute this Agreement to be effective this _____ day of April, 2008.

Requesting Party	Division
By: _____	By: _____
Printed: Chris Lemens	Lilia Judson

Title: Executive Vice President

General Counsel and Secretary

Date: 4/14/2008

Executive Director, Indiana Supreme Court
Division of State Court Administration

Date: 5/28/08

Request for Bulk Data/Compiled Information

STATE OF INDIANA
IN THE _____COURT
CASE NUMBER_____

REQUEST FOR RELEASE OF
BULK DATA/COMPILED INFORMATION
(NOT EXCLUDED FROM PUBLIC ACCESS)

To the Executive Director of State Court Administration:

Pursuant to Administrative Rule 9(F)(3) this request for release of bulk data/compiled information that does not contain information excluded from public access pursuant to Administrative Rule 9(G) or (H) is submitted:

I. **Identity of Applicant:** backgroundchecks.com
Address: 12770 Coit Road Suite 1150 Dallas, TX 75251

Telephone: 866-300-8524
E-Mail: canderson@backgroundchecks.com

II. Identification of Bulk Data/Compiled Information sought:

(specify and describe the records sought and the compiler or location)

All felony and misdemeanor records from the Indiana counties provided by Doxpop, Inc.

III. Identification of Court(s) Exercising Jurisdiction Over the Records:

(List the Court(s))

Bartholomew County, Brown County, Clay County, Clinton County, Daviess County, Decatur County, Delaware County, Delaware County - Muncie City Court, Elkhart County, Fountain County, Fulton County, Gibson County, Grant County, Grant County - Gas City Court, Hamilton County, Hancock County, Henry County, Howard County, Jay County, Johnson County, Kosciusko County, LaGrange County, Madison County, Madison County - Anderson City Court, Marshall County, Miami County, Monroe County, Montgomery County, Morgan County, Perry County, Pike County, Putnam County, Randolph County, Spencer County, Starke County,

Sullivan County, Vigo County, Wabash County, Warrick County, Wayne County, Wells County, Wells County - Bluffton City Court, White County, Whitley County

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IV. Purpose for Request: Is release consistent with the purposes of Administrative Rule 9? Are resources available to prepare the information? Is fulfilling the request an appropriate use of public resources?

Release is consistent with the purposes of AR 9. We have a Data Acquisition team to seek approval from the individual counties and maintain contact with Doxpop, Inc., and a full IT staff to prepare/load the bulk data.

V. Attach a copy of each permission from a Court or County to obtain bulk distribution of Data or Compiled Information that has already been issued.
Permission has not been granted from individual counties yet, we are waiting for the approval from the state.

VI. Attach a copy of each Agreement Applicant has entered into with each Court or County listed in Section III to provide public access services or to obtain bulk distribution of Data or Compiled Information.
Permission has not been granted from individual counties yet, we are waiting for the approval from the state.

VII. Identify the frequency with which bulk Data and Compiled Information is being requested to be transferred to applicant by each Court and county listed in Section III.
Monthly

VIII. Describe the resources available to prepare the information.
backgroundchecks.com currently has an IT group dedicated to loading criminal data into our database. We currently maintain over 500 sources across the United States, and are well equipped to handle the data flow from Indiana.

IX. Describe how fulfilling the request is an appropriate use of public resources.
backgroundchecks.com is requesting only publicly available court records from the counties provided by Doxpop, Inc.

X. Applicant is (is not) willing to pay the reasonable cost of responding to this request. If not, why?
Yes. Pricing has been agreed upon with Doxpop, Inc.

XI. Does this Request include a request for permission to transfer the bulk Data and Compiled Information to a third party?

No.

XII. If the answer to the question in Section XI is no, there is no need to provide the following information but if the answer is yes, please provide the following:

A. the name of the third party or parties;

B. the amount that will be charged to the third party, based solely upon time and materials required to deliver the bulk data;

C. the frequency with which charges will be incurred; and,

D. the frequency of the transfer of data and information to the third party.

E. Attach a copy of the Agreement entered into or intended to be entered into with each third party.

By signing this request, I represent that I am authorized to do so on behalf of Applicant.

Signature

Chris Lemens

Printed Name

Executive Vice President, General Counsel & Secretary

Title

4/14/2008

Date

backgroundchecks.com
12770 COIT ROAD, SUITE 1150 • DALLAS, TX 75251
PHONE: 469.791.9122
TOLL FREE: 866.300.8524
FAX: 469.791.9237

May 7, 2008

Indiana Supreme Court
Division of State Court Administration
Attn: Kristin Donnelly-Miller, Esq.
30 South Meridian Street Suite 500
Indianapolis, IN 46204-3568

Dear Ms. Donnelly-Miller,

Attached please find the appropriate Exhibit A document for our AR 9 Bulk Data Distribution agreement. If you need anything else please contact me at 866-300-8524 ext. 5022 or canderson@backgroundchecks.com

Thank you,
Christina Anderson
Christina Anderson
backgroundchecks.com
12770 Coit Road Suite 1150
Dallas, TX 75251

backgroundchecks.com
12770 COIT ROAD, SUITE 1150 • DALLAS, TX 75251
PHONE 469.791.9122
TOLL-FREE 866.300.8524
FAX 469.791.9237

AR 9 Bulk Data Distribution Agreement

Exhibit A

e-backgroundchecks.com DBA backgroundchecks.com will be the only company participating in the request and use of the bulk data provided.