AGREEMENT WITH RESPECT TO CERTIFIED STATUS FOR A VERSION OF
THE KENTUCKY REVISED STATUTES, AND USE OF AN UNOFFICIAL
VERSION OF THE KENTUCKY ADMINISTRATIVE REGULATIONS

This Agreement, made and entered into this 29th day of July, 2009, by and between the Legislative Research Commission of the Commonwealth of Kentucky, with a mailing address of State Capitol, Room 300, 700 Capital Avenue, Frankfort, Kentucky, 40601, hereinafter referred to as the "Commission," and West Services, Inc., hereinafter referred to as the "Publisher."

WHEREAS, the Commission is charged, pursuant to KRS 7.120, with the responsibility of formulating, supervising, and executing plans and methods for the future revision, clarification, classification, codification, and arrangement of the official version of the Kentucky Revised Statutes, hereinafter "KRS," as authorized by KRS 7.132 to "designate a version of the Kentucky Revised Statutes as a certified version" if the version meets the requirements of KRS 7.134 and the publisher of the version enters into a written agreement with the Commission; and

WHEREAS, the Publisher, through its Cleveland, Ohio offices currently publishes a printed version of the KRS that was designated by prior action of the Commission as an official version under KRS 7.132; and

WHEREAS, the Commission finds that the Publisher's printed version of the KRS meets the requirements of KRS 7.134; and

WHEREAS, the Commission is charged, pursuant to KRS 13A.050, with the responsibility of compiling, publishing, and distributing the administrative regulations filed by administrative bodies;

WHEREAS, the administrative regulations compiled by the Commission constitute the official administrative regulations of the Commonwealth of Kentucky, and are maintained as the Kentucky Administrative Regulations Service under KRS 13A.050;

WHEREAS, West has requested the permission of the Commission to distribute the Kentucky Administrative Regulations as provided in this agreement;

WHEREAS, the Commission has authority under KRS 7.500(8) to make copies of the administrative regulations available to the public, and KRS 7.520 authorizes the Commission to contract for and charge for access to copies of the administrative regulations;

WHEREAS, the Commission wishes to provide access to the Kentucky Administrative Regulations to West in order to facilitate the use of these materials by the public;

WHEREAS, the Commission wishes to authorize West to publish an unofficial version of the Kentucky Administrative Regulations for access through the West website;
WHEREAS, the Commission, through its Director, has officially approved entering into this Agreement;

THEREFORE, in consideration of the mutual promises contained herein, and for valuable consideration given, the parties to this Agreement do hereby agree as follows:

I. PUBLICATION OF CERTIFIED VERSION OF KENTUCKY REVISED STATUTES

1. RESPONSIBILITIES OF THE PUBLISHER

The Publisher shall continue to publish its printed version of the KRS and agrees to the following terms, conditions and specifications:

A. Name. In order to evidence its status under KRS 7.132, the name of the Publisher's certified printed version shall include the words "Kentucky Revised Statutes" and bear the designation "Certified Version" either as an integral part of its title or as an addition thereto. The Publisher is free to make known its certified status in marketing and promoting its printed edition.

B. Contents. The Publisher's certified printed version of the KRS shall contain those items set forth in KRS 7.134. If the Publisher proposes to add any new features or materials beyond those currently found in its printed version of the KRS, the Publisher must obtain written authorization from the Commission via the Reviser of Statutes prior to their inclusion. If the Commission determines it to be appropriate, the Publisher shall include any statement as to the unofficial status of the new feature or material in a manner acceptable to the Commission.

C. Certification. The Publisher's certified printed version shall carry the certificate provided for by KRS 7.134(3) in each volume, unit, supplement, or supplemental pocket part, including interim update service issues, in a manner and location acceptable to the Commission.

D. Format and Style; Layout of Text. The format of the Publisher's certified printed version and the style in which it is printed, including its size, typeface, grade of paper and binding, shall be in a manner that facilitates its use and presents the laws of the Commonwealth in an accurate and readable manner. The Publisher shall consult and reach an agreement with the Commission before altering the existing format and style of its certified printed version. The layout of the text of the statutes in the Publisher's certified printed version shall conform to the layout in the official version maintained by the Commission unless otherwise authorized by the Commission. Permission to change the format shall not be unreasonably withheld.
E. Supplementation. In order to provide newly enacted legislation in its codified form to the people of the Commonwealth in a timely manner, the Publisher shall promptly issue supplementation after each regular and extraordinary session of the Kentucky General Assembly in a method acceptable to the Commission.

i. Unless the Commission expressly grants a written extension for good cause based on extraordinary circumstances, the Publisher shall ship the cumulative supplements following a regular session of the Kentucky General Assembly within sixty (60) business days from the date on which the Commission makes the last shipment of codified text for the enactments of that regular session. "The last shipment of codified text" means, for the purposes of this Agreement, the Commission's final transmission and the Reviser's notation on same of the final edited copy of the enactments, including any budget appendices, mergers and conflict resolutions from multiple amendments, of a legislative session.

ii. Any additional changes, including additional Legislative Research Commission notes, sent to the Publisher during the sixty (60) business day period after the last shipment of codified text shall be included in cumulative supplementation if, in the judgment of the Publisher, this is possible while meeting its publication deadline. Otherwise, it shall be included in the Publisher's next scheduled supplementation.

iii. In addition to constituting grounds for withdrawal of certified status under Item 1.4 of this Agreement, the failure to ship a cumulative supplement during the specified sixty (60) business day period shall give rise to an additional price discount to governmental purchasers, as set out in Item 1-G of this Agreement, on the Publisher's complete certified printed version, cumulative supplements, replacement volumes, index volumes, individual volumes and interim update service during the year in which the timely failure to ship occurs. Unless waived by the Commission, the additional discount shall be one percent (1%) of the normal governmental cost for the maintenance of the KRS under Item 1-G for each period of three (3) working days or less by which shipment of the cumulative supplements is greater than the specified sixty (60) business days.

iv. As a convenience to its subscribers, the Publisher may issue an unofficial version of the session laws following a legislative session. The Publisher shall not represent that this version constitutes an official version of the session laws and shall carry a statement to this effect as desired by the Commission.

v. Not less than three (3) times annually, unless with the express written permission of the Commission, the Publisher shall issue interim update supplementation containing additional annotations to opinions of the court
and the Kentucky Attorney General, legal bibliographic references, corrections or modifications issued by the Reviser of Statutes, and any other material requested by the Commission.

F. Replacement of Volumes. The Publisher shall consult and reach an agreement with the Reviser of Statutes in determining which volumes of its certified printed version require reissuance and then in scheduling their replacement. The Publisher shall allow for sufficient time, prior to publication, to identify and resolve inconsistencies between its database and the official version of the KRS maintained by the Commission. The Publisher acknowledges that no certificate for the replacement material will be issued until this process is completed to the satisfaction of the Commission. The Publisher shall provide the Commission, at no cost and at a time and in a format acceptable to the Commission, with any text or data it requests to verify the identity of the replacement or supplemental material with the official version of the KRS.

G. Pricing. The price of the Publisher's certified printed version to nongovernmental purchasers, and for replacement and supplemental material to that version, shall be set by the Publisher based on its own determinations and interests, according to market demands. The Publisher shall sell to the Commission or the Kentucky General Assembly individual volumes, units or complete sets as well as cumulative supplements, replacement volumes or units, index volumes or units, and interim update service subscriptions of the Publisher's certified printed version at a discount of thirty percent (30%) from the standard list price charged nongovernmental purchasers, F.O.B. buyer's location. The Publisher shall sell to the Commonwealth of Kentucky, and any of its agencies, and any entity of local government in the Commonwealth of Kentucky, or any agency thereof, sets of its certified printed version of the Kentucky Revised Statutes, cumulative supplements, replacement volumes, index volumes, and interim update service subscriptions at a discount of thirty percent (30%) from the standard list price charged nongovernmental purchasers, F.O.B. buyer's location. "Standard list price" means, for purposes of this Agreement, the price at the time of a governmental purchase that the Publisher is then regularly advertising or communicating to nongovernmental purchasers of a single copy or set of an item or service, or the price that the Publisher in fact most frequently charged nongovernmental purchasers of a single copy or set of that item or service, or its equivalent, during the Publisher's last fiscal year, whichever is lesser. Sales to governmental entities pursuant to this paragraph shall be made without interest or finance charges. The Publisher may offer to governmental purchasers a discount greater than the discounts established by this paragraph.

H. Copyright. The Publisher shall not assert a copyright interest in the constitutional or statutory text, section numbers, catchlines, headings, court rules, tables, notes, or other material provided to it by the Commission that has been included in its certified printed version of the KRS. The Publisher authorizes use by the Commission of its certified printed version, without any additional
acknowledgment of copyright, to provide photocopies in responding to routine inquiries and to incorporate information contained in the Publisher's history notes in the Commission's databases and publications. The Commission recognizes that the Publisher asserts copyright in its historical notes, compiler's notes, annotations, legal bibliographic references and other material developed by the Publisher for the KRS and the Commission acknowledges that it shall not reprint those portions without first obtaining the written authorization of the Publisher, except that the Commission does not need to obtain written authorization when making reasonable numbers of copies for the internal use of the Commission in performing its work.

I. Errors and Omissions; Errata Notice. The Publisher shall promptly give written notification to the Commission of any discovered or reported errors or omissions in the statutory text of its certified printed version and shall advise the Commission of a proposed action to remedy the error or omission. At the request of the Commission, the Publisher shall furnish to its subscribers, without additional charge, notice of any substantial publishing errors or omissions, regardless of source, that in the Commission's judgment merit immediate action prior to issuance of the Publisher's next regular supplementation or interim update service. This notice shall be given in a manner and form acceptable to the Commission.

J. Editorial Procedures and Support. The Publisher shall prepare its certified printed version of the KRS, including certified version supplementation and replacement material, "in a manner acceptable to the Legislative Research Commission so as to insure the identity of its text with the official version of the Kentucky Revised Statutes," as required by KRS 7.134(3), and shall continue to maintain the high standards of accuracy and reliability that characterizes its reputation as a publisher. The Publisher shall supply assistance and support to the Commission and the Reviser of Statutes by prompt communication from its editorial offices. Additionally, if the Commission requests, the Publisher shall provide on-site assistance from an experienced editor under its employ, without cost to the Commission, during or following each regular session of the Kentucky General Assembly, for a period of time acceptable to both the Commission and the Publisher. The Publisher shall make available to the Commission and to the citizens of the Commonwealth of Kentucky a toll-free telephone line for editorial support and customer services and assistance.

K. Partial Printings and Nonprint Versions. Using its own database, the Publisher may produce partial printings and nonprint versions, including supplying its printed edition to electronic services of the KRS, both on its own initiative and by contract with individuals, business entities, and governmental bodies or agencies. The Publisher shall not represent that the partial printing or the nonprint version constitutes a certified version but may, however, indicate that it is based on the Publisher's certified printed version. The Publisher shall include in any partial printing or nonprint version any statement found necessary by the Commission
relating to its noncertified status and the need to consult a certified printed version and its supplementation for authoritative text. A single copy of each partial printing produced by the Publisher shall be provided without charge to the Reviser of Statutes.

L. Acts Data. For each legislative session, the Publisher shall enter into an agreement with the Commission relating to the data, in electronic format, of session laws provided to the Publisher following each regular and extraordinary session of the General Assembly. The Publisher acknowledges that this data is provided for use in updating its statutory database and publishing, at its option, its own unofficial version of the session laws and agrees that it will not use the electronic media supplied for any other purpose or sell, lease, loan, or otherwise transfer to other party the electronic media provided or their contents, without first obtaining an agreement from the Commission for that use or transfer.

M. Release of Updated Material. Except with the express prior written authorization of the Commission, the Publisher shall not release, either directly or in its own products or supplements or indirectly through any other entity's products or services, any statutory text until that text has been issued in an interim update service, supplement, or replacement volume or unit of the Publisher's certified printed version of the KRS. This restriction shall not apply to on-line publications.

N. CD-ROM Version. If the Publisher produces a CD-ROM version of the KRS, the Publisher shall provide up to four (4) continuing complimentary subscriptions and service. All requests for complimentary subscriptions under this paragraph shall originate from the Reviser of Statutes or from an individual designated by the Reviser of Statutes. Users for whom the product is provided under this agreement must execute a subscription agreement with the Publisher and agree to use the CD-ROM version for state government use only. A complimentary subscription and customer support provided under this paragraph shall include all materials and services received by a paid subscriber to the standard version of the product, except that training shall be provided by qualified employees of the Commission trained and supported by the Publisher at the expense of the Publisher. CD-ROM products provided under this paragraph shall be provided as single-user personal computer versions or multiple concurrent-user network versions, if available, at the election of the Commission. The terms of this paragraph shall also apply to any other electronic versions of the KRS in other electronic formats that the Publisher may issue in addition to or as a successor to a CD-ROM version. This paragraph does not apply to the posting of the Publisher's data for the Kentucky Revised Statutes on the West electronic on-line service as an unofficial, noncertified version of the Kentucky Revised Statutes.

O. Complimentary Continuation Service. At no cost to the Commission, the Publisher shall supply complete supplementation and replacement material for four (4) sets of its printed version of the KRS that are located in the chamber of
the Kentucky Senate, the chamber of the Kentucky House of Representatives, the office of the Director of the Commission, and the office of the Reviser of Statutes.

P. Mailing Upon Withdrawal or Termination of Certified Status. In the event that the certified status of the Publisher's printed edition is withdrawn by action of the Commission (see Item 4) or terminates because of the expiration of this Agreement, the Publisher shall send out, at no cost to the Commission and in a manner and format acceptable to the Commission, a mailing to all then-current subscribers of the Publisher's certified printed version advising them of the withdrawal or termination of certified status.

Q. Shipping. The Publisher shall pay shipping costs of codification-related materials to and from the Publisher, and shall provide prepaid shipping labels or shipment payment tracking numbers to the Commission for this purpose.

2. RESPONSIBILITIES OF THE COMMISSION

With respect to the production of the Publisher's certified printed version of the KRS, the Commission agrees to the following terms and conditions:

A. Codification. The Commission has the sole power and authority for codifying enactments of the Kentucky General Assembly into the KRS. In order to provide the Publisher with finalized text for its certified printed version, it shall assign section numbers and catchlines to newly created sections, merge amendatory language into existing sections, resolve conflicts between multiple amendments to the same existing section and perform all other editorial functions necessary after each legislative session in as prompt a manner as possible. Until such time as the Commission determines some other method is to be utilized, the Commission will continue to provide the Publisher with the data, in electronic format, and in paper format if requested by the Publisher, used in producing its version of the session laws (the Kentucky Acts) and copies of enrolled bills showing the manner in which they are to be codified into the KRS.

B. Completion of Codification. The Commission shall supply to the Publisher the codified text for all enactments of a regular session of the Kentucky General Assembly by no later than September 1 following the adjournment sine die of that regular session and the codified text for all enactments of an extraordinary session of the Kentucky General Assembly by no later than sixty (60) days following the adjournment sine die of that extraordinary session. The provisions of this paragraph may be suspended by the Commission when it deems it necessary and appropriate because of: (1) an intervening legislative session during the specified time periods, (2) an enactment during the session of legislation of unusual length or complexity, (3) a change in the provisions of the Kentucky Constitution relating to the timing or duration of legislative sessions, (4) a fire, act of terrorism, natural disaster or act of God at the seat of Kentucky's state government during the specified time periods, (5) the death, incapacity, or resignation of the Reviser
of Statutes during the specified time periods, or (6) conditions of war or civil insurrection affecting the seat of Kentucky's state government during the specified time periods.

C. Session Laws. As soon as possible after the adjournment of a legislative session, the Commission shall supply the Publisher with the data used to generate its official printing of the session laws. The Commission shall provide this data to the Publisher in both hard copy and electronic format. The electronic format shall be in a medium of the Commission's choosing, but the Commission shall not change the format and medium last used without first consulting with the Publisher. The Commission shall also provide the Publisher, without charge, a copy of the final printed volume or volumes of each edition of the Kentucky Acts when these become available.

D. Assistance to Publisher's Editorial Staff. Subject to meeting the other responsibilities to the General Assembly and to the Commission, the staff of the Commission shall endeavor to provide the Publisher's editorial staff with prompt responses to all inquiries relating to questions on the Publisher's certified printed version of the statutes.

E. Materials for Reconciliation for Replacement Volumes. To assist the Publisher in doing the identification and reconciliation required by Item 1-F, the Commission shall provide the Publisher with printouts of the text involved from the official version of the KRS and with data for that text in an electronic format and medium of the Commission's choosing, but without changing the format or medium last used without first consulting with the Publisher. If the Publisher desires shipment of this material or of answers from the Commission to questions raised in this process other than by the Commission's normal means of shipment, the Publisher shall be responsible for the costs of the alternative means of shipment.

3. CONSTRUCTION OF TERMS

The Publisher acknowledges that pursuant to KRS 7.140, "[t]he execution of the functions provided for in KRS 7.120, 7.131, 7.132, 7.134, 7.136, 7.138, and [7.140] shall be carried out by a reviser of statutes, who shall be appointed by the Commission" and further acknowledges that, for the purposes of this Agreement, any action requested, directed, undertaken or granted by the Reviser of Statutes, acting pursuant to this statutory authority, shall be considered to be and shall have the same force and effect as an action by the Commission.

4. WITHDRAWAL OF CERTIFIED STATUS

The Publisher acknowledges that the Commission may withdraw certified status for the Publisher's printed edition of the KRS at any time for cause and by vote of the
Commission's members because of the Publisher's failure to comply with any terms of this Agreement, including but not limited to any of the following:

A. Issuance of a volume, master unit, cumulative supplement, or interim update service issue with errors or omissions of such substantial magnitude and volume as to indicate to the Commission that the method or manner of production used by the Publisher does not warrant continuation of certified status for the Publisher's printed edition.

B. Failure to make a timely shipment of cumulative supplements under Item 1-E of this Agreement.

C. Failure to provide material information or editorial assistance, as requested by the Commission and consistent with the terms of this Agreement, in a timely fashion.

D. Misrepresentation or failure to disclose information required by or necessary to the operation of this Agreement or of errors or omissions in the Publisher's printed version of the KRS.

E. Actions or omissions by the Publisher or of its parent, subsidiary, or affiliated companies that are inconsistent with an assertion of copyright by the Commission in any publication produced or published by the Commission.

5. STATUS OF PREEXISTING MATERIALS

As provided by 1996 Ky. Acts c 46, sec. 12, "materials that had been certified prior to January 1, 1997, as a part of an existing official edition of the Kentucky Revised Statutes under the provisions of KRS 7.138 prior to its amendment by [that] Act shall continue to be admissible in judicial and administrative proceedings as provided by that statute prior to its amendment to the extent that those materials have not been superseded by replacement or supplemental material from that official edition's publisher." Notwithstanding Item 1-A of this Agreement, the Publisher shall not be required to reissue any materials issued prior to January 1, 1997, solely to change the designation "Official Edition" to "Certified Version." However, in reprinting any materials after January 1, 1997, to restore inventory stock of nonsuperseded material, the Publisher shall change the designation shown on the cover, spine, title page, or any other location from "Official Edition" to "Certified Version" but the reprinted material shall not require a new certification for the purposes of KRS 7.138.
II. PUBLICATION OF WEB-BASED UNOFFICIAL VERSION OF KENTUCKY ADMINISTRATIVE REGULATIONS

A. LICENSE OF MATERIAL

1. Subject to the terms of this agreement, the Commission grants to Publisher a nonexclusive and nontransferable license for the authorized use of the text of the 2009 Kentucky Administrative Regulations Service ("KAR"), each succeeding year's reissuance of the KAR, and the Kentucky Administrative Register, for the purposes specified in this agreement. Publisher acknowledges that the material that has been licensed under this agreement shall be provided in an electronic format ("material") and shall remain the property of the Commission. Publisher may act through its affiliates in performing this agreement.

2. The Commission shall provide this material to West Publishing Company via an email address supplied by Publisher, or by permitting the Publisher to access the Commission's webpage. Publisher may change this address by giving written notice to the Administrative Regulations Compiler at Emily.Caudill@lrc.ky.gov.

3. The Commission shall permit the Publisher to download from the Commission's webpage a complete and current version of the KAR and the Administrative Register, or shall send a complete and current version of the KAR and the Administrative Register in an electronic file, for publication on the Publisher's web-based legal and news research services. Thereafter, the Commission shall permit Publisher to routinely download updates periodically during the month, for publication on the Publisher's website. The LRC Web site is updated each month to include the regulations that have been published in that month's Administrative Register. It is the first link at the bottom of the following Web page: http://www.lrc.ky.gov/KAR/frntpage.htm.

4. Publisher shall restrict the use of the Kentucky Administrative Regulations and the Kentucky Administrative Register to their legal and news research services and products consisting of, or utilizing, electronic access, distribution, reproduction or use of information (for example, online and web-based services and products). Publisher shall not publish the KAR in any other print or distributed electronic format beyond the terms of this agreement, including on disk, paper, or CD-ROM unless agreed to by the Commission and Publisher. Permission to publish an unofficial version of the KAR in print shall not be unreasonably withheld.

5. The Publisher shall not assert a copyright interest in the KAR, the Kentucky Administrative Register, or the text, section numbers, catchlines, headings, tables, notes, or other material provided to it by the Commission that has been included in its version of the KAR. The Publisher authorizes use by the Commission of its official version of the KAR, without any additional acknowledgment of copyright, to provide photocopies in
responding to routine inquiries. The Commission recognizes that the Publisher asserts copyright in its historical notes, compiler's notes, annotations, legal bibliographic references and other material developed by the Publisher for web-based unofficial version of the KAR and the Commission acknowledges that it shall not reprint those portions without first obtaining the written authorization of the Publisher, except that the Commission does not need to obtain such authorization when making reasonable numbers of copies for the internal use of the Commission in performing its work. The Publisher shall include the Commission's citation format in its citations.

6. The Publisher shall provide language in each publication of the Kentucky Administrative Regulations as follows (with the current year updated):

   This unofficial version of the Kentucky Administrative Regulations does not constitute an official version of these administrative regulations and is provided for informational purposes only. For the official text of administrative regulations, the user should consult the official edition of the Kentucky Administrative Regulations Service and the Kentucky Administrative Register, which supplements it. Copyright [insert current year] by the Legislative Research Commission. Reprinted with permission; further reproduction is not authorized.

7. Publisher shall provide compensation to the Commission in the amount of $8,000 per year for the use of the KAR, payable prior to the initial download or transmission of the KAR for each year.

III. CONDITIONS

1. DURATION OF AGREEMENT

   This agreement is effective on the date of its execution and shall continue in effect until terminated by the terms of this contract. Part I of this agreement is automatically terminated by the Commission's withdrawing certified designation to the Publisher's printed edition of the KRS under the conditions designated under Part I, Item 4, "Withdrawal of Certified Status"; however, withdrawal of certified status of the KRS shall have no effect upon Part II of the agreement with respect to the publication of an unofficial web-based version of the administrative regulations. Either party may cancel this contract, or may cancel either Part I or Part II of this contract independently of the other Part, upon thirty (30) days written notice to the other party, without cause.

2. SEVERABILITY

   If any part of this Agreement is found to be in violation of any law or is found to be otherwise legally defective, this Agreement shall be construed and interpreted without reference to that part.

3. ENTIRETY OF AGREEMENT
This Agreement constitutes the entire understanding of the parties to it and supersedes any and all prior or contemplated representations or agreements, whether written or oral, among the parties. It expressly supersedes all correspondence and draft agreements by which this Agreement was negotiated. This Agreement cannot be changed or modified unless by a subsequent written agreement of the parties.

4. WAIVER

No term or provision of this Agreement shall be considered waived and no breach excused unless the waiver or consent is in writing and signed by the party claimed to have waived or consented.

5. RESOLUTION OF DISPUTES

Any dispute between the Commission and the Publisher as to the application, meaning or interpretation of any part of this or any subsequent agreement, waiver, or consent modifying this Agreement shall be resolved in the Commonwealth of Kentucky by application of Kentucky law. Any legal action arising from this Agreement shall be filed and litigated in the Court of Justice of the Commonwealth of Kentucky.

6. ASSIGNMENT

The Publisher may not assign this Agreement or any part thereof without the written consent of the Commission. Assigning any part of this Agreement without the written consent of the Commission voids this Agreement and nullifies all certifications granted by the Commission for the Publisher's printed version of the KRS. The Publisher may subcontract any of its activities under this agreement without the written consent of the Commission and may act through its affiliates.

IN WITNESS WHEREOF, the Commission and the Publisher have caused this Agreement to be executed by their duly authorized and empowered officers and representatives on the date given above.

LEGISLATIVE RESEARCH COMMISSION
COMMONWEALTH OF KENTUCKY

By: Robert S. Sherman, Director

WEST

By: Candace Hatton