

**TRUCKEE RIVER SPECIAL HEARING OFFICER
ELECTRONIC FILING SYSTEM**

USER AGREEMENT – TERMS OF USE

(v.12/2020)

**YOU AGREE TO READ THIS ENTIRE AGREEMENT CAREFULLY
BEFORE USING THE TRSHO EFS. BY ACCESSING AND/OR USING
TRSHO EFS, YOU ACKNOWLEDGE AND AGREE TO ALL
THE TERMS AND CONDITIONS OF THIS USER AGREEMENT.**

Section 2.B. of the [Truckee River Operating Agreement](#) (“TROA”) provides for dispute resolution mechanisms, including the appointment of a Special Hearing Officer and the promulgation of procedural rules. Pursuant to Rule 7 of the TROA Procedural Rules for Disputes Arising Under TROA¹ (“Procedural Rules”), the Truckee River Special Hearing Officer (“TRSHO”) has implemented the TRSHO Electronic Filing System (“EFS”) exclusively for the filing of contested arising under TROA. Under TROA and the Procedural Rules, Parties filing in any contested case arising under TROA agree to register and file pleadings and receive service via TRSHO EFS.

Use of the TRSHO EFS is subject to terms and conditions set forth herein. By registering for or using the TRSHO EFS, you are deemed to accept, agree to and be bound by all of the terms and conditions in this User Agreement, the Truckee River Operating Agreement (“TROA”) and the Procedural Rules for Disputes Arising Under the Truckee River Operating Agreement (“Procedural Rules”). To the extent a provision of this User Agreement contradicts or is inconsistent with the provisions of the TROA and/or Procedural Rules, the TROA controls.

It is recommended that Users review the Procedural Rules, the TRSHO EFS Standards & Frequently Asked Questions, and the tutorial posted on the [TRSHO EFS Home page](#), as they address many issues and requirements concerning the use of the TRSHO EFS. These terms and conditions may be changed, deleted, or updated by notice posted under “Announcements” on the TRSHO EFS homepage. Any such changes or updates are effective immediately unless otherwise noted, and User's continued use after any change indicates acceptance of all changes.

TRSHO EFS Users must complete the registration process prior to using the TRSHO EFS.

¹ The Truckee River Operating Agreement (“TROA”) and TROA Procedural Rules for Disputes Arising Under TROA may be viewed at <https://uswatermaster.sharepoint.com/sites/hearingofficer>.

1. **USERS.** A TRSHO EFS User may be one of the following three types:
 - a. Attorney. A licensed attorney with an active bar number who represents the party in a TROA Contested Case and is e-filing pleadings and/or other documents on behalf of that party.
 - b. Staff. Any non-attorney staff, e.g. legal secretary, assistant or paralegal, authorized to file and serve documents for an attorney-User through TRSHO EFS.
 - c. Monitoring User. A TROA Signatory party representative or other person who wishes to monitor a case(s) and successfully completes the User registration process. **A Monitoring User is not authorized to e-file pleadings or other documents on behalf of a TROA party.**

2. **LICENSE TO USE.**

The User is granted nonexclusive, nontransferable access to use TRSHO EFS only as authorized in this User Agreement.

- a. You agree that access to TRSHO EFS or its content will be limited to the named User only. User shall not i) provide any third party (including its clients) any right of access to TRSHO EFS; ii) repackage any records or data in any bulk form or otherwise for distribution; or iii) provide any on-going services to third parties through or using TRSHO EFS.
- b. You agree to only use TRSHO EFS for the purposes of e-filing and/or e-servicing or monitoring a case, as your EFS User permission allows. TRSHO EFS shall not be used in a manner contrary to or in violation of any applicable federal, state, or local law, rule, or regulation.

3. **CHARGES.**

There is no charge to register for and maintain a TRSHO EFS User account. However, **once a User becomes a party to a dispute, fees and costs apply** pursuant to [TROA](#) sections 2.B.2(b)(6), 2.B.3 and 2.C.4. The parties to any dispute bear their own costs and fees, including compensation of the Truckee River Special Hearing Officer associated with TROA dispute resolution.

4. **USER RESPONSIBILITIES.**

- a. User is solely responsible for:
 - i) User's software and equipment, including computer and communications devices;
 - ii) ensuring User's software and hardware are suitable for connecting to TRSHO EFS; and

iii) User's internet access and connectivity to TRSHO EFS, User's relationship with its internet service provider, and any telephone or other connection and service fees associated with such access.

b. User is solely responsible for the continuing accuracy of any and all information provided by User to TRSHO EFS in connection with the electronic transmission or delivery of any document. User must update TRSHO EFS with any change in User's contact information. Failure to update TRSHO EFS of any change in User contact information may result in incomplete delivery of service documents upon them, or failure to receive service of legal documents.

c. User is solely responsible for monitoring case status on TRSHO EFS, including checking TRSHO EFS to determine if a document it attempted to e-file has been accepted or rejected by the TRSHO.

d. User is responsible for checking TRSHO EFS for changes to the terms of this Agreement. TRSHO EFS is not responsible for notifying User of such changes.

e. User shall use reasonable efforts to protect against the contamination of its computer systems and files from software viruses, worms or other malicious agents that may reside within messages sent through TRSHO EFS. At a minimum, such precautions shall include the installation, upgrading and use of commercial virus detection software to scan files and documents transmitted via TRSHO EFS. Additionally, User shall use reasonable efforts to identify and to correct or remove any document or file that may have infected data or contain viruses or other malicious agents. The TRSHO reserves the right to delete infected documents, files or programs, and the TRSHO shall have no liability to User, or the sender or intended recipient of infected materials. However, no precautions or virus detection software is or can be effective against all viruses, and thus the TRSHO shall have no liability with regard to any contamination of computer system or files.

5. PROPRIETARY RIGHTS. No portion of TRSHO EFS may be reproduced or transmitted in any way without express written permission from the TRSHO. Any violation will result in the termination of this User Agreement, deactivation of User's TRSHO EFS account, report to Attorney Regulation, possible legal action, and/or other legal remedies.

6. WARRANTY.

a. The TRSHO EFS is provided on an "as is" and "as available" basis, with all faults and without warranty of any kind.

b. The internet is a not an error-free environment. The TRSHO EFS is subject to limitations, delays and problems inherent with the internet and electronic communications. The TRSHO does not warrant that TRSHO EFS will meet User's requirements or that TRSHO EFS will be uninterrupted, timely, secure or error-free. The TRSHO does not warrant the accuracy or completeness of the information in documents available on TRSHO EFS, or warrant that any pleadings, mail or other documents will be received and read by their intended recipient.

7. TERM AND TERMINATION.

This User Agreement is effective upon User's successful registration and shall continue until terminated. User may terminate this Agreement, with or without cause, at any time for any reason. In the event that User breaches any material term of the User Agreement, the User may be excluded from the TRSHO EFS. Users of a terminated account will lose all access to the TRSHO EFS system and will not be able to utilize any features of TRSHO EFS.

8. LIMITATION OF LIABILITY.

a. The TRSHO shall not be liable to User, User's clients or customers, or other third parties for any claim based upon (a) rejection of a document by the TRSHO, (b) alleged defamation, libel, or slander contained in a document, (c) infringement of any intellectual property rights in a document, and (d) the content and format of a document. The TRSHO shall not be liable to User, User's clients or customers, or other third parties based upon incorrect transmission or delivery instructions by Users, including, without limitation, no liability for any losses in connection with the loss of privilege or for any other claimed injury or damages due to disclosure of a document.

b. The TRSHO will not be responsible for, and User will not seek to hold the TRSHO responsible for any loss, injury, claim, liability or damage of any kind resulting from:

- i) any errors in or omissions from TRSHO EFS;
- ii) any delays or delivery problems resulting from use of TRSHO EFS;
- iii) the unavailability or interruption of TRSHO EFS or any of its features;
- iv) User's use of TRSHO EFS (regardless of whether User received assistance, information or advice from the TRSHO EFS site or other TRSHO EFS support);
- v) transmission errors or any problems relating to telephone lines, wifi service or other transmission devices, including the unavailability of telephone lines, wifi service or other electronic transmission lines or devices;
- vi) any alteration or destruction of a document resulting from third parties' unauthorized access to or use of TRSHO EFS; or
- vii) any losses or damages or alteration or destruction of a document or information on any party's computer system or elsewhere resulting from the transmission of computer "viruses" or other damaging or destructive software or software components by or through TRSHO EFS.

c. In no event will the TRSHO be liable for any direct, indirect, incidental, consequential, exemplary or punitive damages whatsoever, including, without limitation, loss of use, interruption of business, loss of revenues, profits, data or other information, even if advised of the possibility of such damages. If any remedy hereunder is determined to have failed of its essential purpose, all limitations of liability, disclaimers and exclusions of warranty and damages set forth herein shall remain in effect.

d. The TRSHO or certain third parties may provide links to other resources and/or websites. User acknowledges and agrees that the TRSHO is not responsible for the availability of any such external sites or resources, and as such, does not endorse nor is it responsible or liable for any content or any other materials, on or available from such third party sites or resources. Furthermore, User acknowledges and agrees that TRSHO shall not be responsible or liable, directly or indirectly, for any such damage or loss which may be a result of, caused or allegedly to be caused by or in connection with the use of or the reliance on any such content or materials made available on or through any such site or resource.

9. INDEMNIFICATION.

To the maximum extent authorized by law, User agrees to defend, indemnify and hold harmless the TRSHO (including its officers, directors and employees) from any claim or demand, including reasonable attorneys' fees, made by any third party that TRSHO was not in compliance with this User Agreement.

10. THIRD-PARTY SOFTWARE.

The TRSHO may utilize software from third-party providers ("Third Party Software"). User shall comply with the license terms of any Third Party Software supplied in connection with TRSHO EFS. User agrees that it will not and will not allow others to alter or modify any Third Party Software without express written permission from the Third Party Software provider in each instance. The TRSHO has no obligation to maintain or upgrade any such Third Party Software.

11. GOVERNING LAW.

This User Agreement shall be construed and governed in accordance with the TROA and the Procedural Rules. Any action related to TRSHO EFS, its use or to enforce this User Agreement and its terms and conditions shall be brought only in the Orr Ditch Decree Court.

12. SEVERABILITY.

Should any term of this User Agreement be declared void or unenforceable, all of the remaining terms shall continue in full force and effect provided that the parties can continue to perform their obligations under this User Agreement in accordance with its intent.

13. NO WAIVER.

The TRSHO's failure to enforce its rights hereunder shall not be deemed a waiver to any subsequent enforcement of rights.

14. ENTIRE AGREEMENT.

This User Agreement constitutes the entire agreement between the TRSHO and User and thus supersedes any and all other agreements, representations and understandings, whether written or oral.