

## **FAMILYOFFICENETWORK®– TERMS OF USE INTRODUCTION**

Welcome to FamilyOfficeNetwork® and MyFinancialFiles®. Access to these sites requires a unique username and password for each user. By logging in, the user will have access to our internet applications as described in these Terms of Use. Certain services are available only to paid members. FamilyOfficeNetwork, L.L.C. provides services to the users expressly subject to these Terms of Use, which FamilyOfficeNetwork® may update at any time with or without notice. Users can review the current version at <http://www.familyofficenetwork.com/tou.php>.

### **PURPOSE**

*THESE TERMS GIVE THE USER CERTAIN RIGHTS AND RESPONSIBILITIES. IN THE EVENT OF ANY CHANGE TO THESE TERMS, THE USER'S CONTINUED USE OF THE SITE WILL BE DEEMED TO INDICATE ACCEPTANCE OF AND AGREEMENT TO BE BOUND BY SUCH CHANGES. BY LOGGING IN WITH THE PROVIDED USERNAME AND PASSWORD, THE USER: (A) ACCEPTS AND AGREES TO BE BOUND BY THESE TERMS AND ANY CHANGES WITHOUT LIMITATION OR QUALIFICATION, (B) AGREES TO REGULARLY REVIEW THESE TERMS TO ENSURE THAT USER IS INFORMED OF ALL SUCH MODIFICATIONS AND ADHERES TO THEM, AND (C) AGREES THAT IT IS USER'S SOLE RESPONSIBILITY TO ENSURE THAT THE E-MAIL ADDRESSES FOR THE USER ON THE SITE ARE LEGITIMATE AND CORRECT, TO PROMPTLY UPDATE ALL SUCH E-MAIL ADDRESSES, AND TO CHECK MESSAGES TO SUCH ADDRESSES FREQUENTLY IN ORDER TO TIMELY REVIEW ANY NOTICES RECEIVED FROM FAMILYOFFICENETWORK®. CLIENT USERS (USERS NOT PAYING FOR SERVICE) WILL NOT RECEIVE NOTICES DIRECTLY FROM FAMILYOFFICENETWORK®.*

IT IS THEREFORE AGREED:

### **1. Definitions**

**Client:** A Client User has access to all features available to a client, does not pay a fee for access, and must be associated with at least one Full Access Advisor, Associate Advisor, or Service Provider.

**MyFinancialFiles Advisor®:** An Advisor using the MyFinancialFiles® services has full communication between the Advisor and an unlimited number of clients but can not share clients with other advisors and does not have co branding.

**Network Group or Group:** A network of licensed Users who are listed as being part of a unique FamilyOfficeNetwork® "Network." Networks may be geographic or otherwise defined. Network membership is not guaranteed and is subject to the approval of existing members of the Network.

**Full Access Advisor:** A Full Access Advisor has co-branding, access to all features, and can add an unlimited number of clients.

**Associate Advisor:** Has the same access as a Full Access Advisor, but MUST be associated with a firm or individual who purchased a Full Access Advisor license. FamilyOfficeNetwork® reserves the right to determine an advisors eligibility to be an Associate Advisor.

**Primary Advisor:** A Full or Associate Advisor who enters a client into the Network and thus controls access to that client. Only a Primary Advisor may grant access rights to other Users.

**Limited Use Advisor:** Has access to the features a Full Advisor License has, however, can only receive access to other advisor's client accounts. (Cannot create their own client accounts.) User fees are based on the number of clients shared with other users and is limited to no more than five (5) clients.

**View Only Advisor:** Like the Limited Use Advisor but pays no fee for Access to FamilyOfficeNetwork® and has only the ability to view files posted by other Advisors.

**Service Provider:** Has access to all features. The Service Provider's classification is based on its profession and the benefits it provides to Client users. In addition to the fees and terms otherwise applicable to Advisors, Service Providers will provide unique benefits to FamilyOfficeNetwork® clients (i.e. discounts, additional services, etc.) that would not be available to the general public. Said benefits will be delineated on the Service Provider's FamilyOfficeNetwork® listing. FamilyOfficeNetwork® reserves the right to determine a User's eligibility to be classified as a Service Provider.

**Coordinator:** Includes Full Access Advisor rights. Has the right to control and maintain an affinity group according to these terms and other terms established in a separate contract between the Coordinator and FamilyOfficeNetwork, LLC.

Storage Space: The amount of data storage available through our Application Service Provider (ASP) for each level of license. See our current product comparison sheet for details.

All of the above shall be referred to as "User(s)"

## 2. Services

FamilyOfficeNetwork® provides an internet application for the deposit and exchange of client information with clients and/or (when applicable) other users within a "Group". User may access and use the services for the storage and exchange of client information with that client or other Users authorized to receive the information about such client. This includes depositing (uploading) client information for viewing and copying by other authorized Users and viewing and copying (downloading) authorized client's information deposited by other Users. User may modify and remove client information that User has deposited, but may not modify or remove client information deposited by other Users, unless granted permission and ownership of such information.

## 3. Advisor Classification and Non-Exclusivity

User's professional classification is reflected in User's listing within FamilyOfficeNetwork®. User may be listed under more than one classification subject to these terms and payment of additional fees.

It is the intent of FamilyOfficeNetwork® to provide a working relationship among Users serving (in general) the same clientele. User acknowledges a non-exclusive right to the use of FamilyOfficeNetwork®.

***FamilyOfficeNetwork® respects the integrity of affinity groups. User acknowledges that affinity group membership is regulated by the members of the affinity group.***

## 4. Client Information Access Requirements

By entering a client into FamilyOfficeNetwork®, User assumes the responsibility as "Primary Advisor" for that client. Only the Primary Advisor can share a client with other Advisors. Advisor assumes full responsibility for obtaining client permission to share the client's financial information with other Users. FamilyOfficeNetwork® assumes no responsibility to the client or client's advisors for insuring that advisors accessing client information through FamilyOfficeNetwork® have permission to do so. User is responsible for advising Client that FamilyOfficeNetwork® does not control access to Client's information. FamilyOfficeNetwork® does not give professional advice or provide professional services to any client and bears no responsibility for the actions of any advisor regarding clients on FamilyOfficeNetwork®.

## 5. User Service Fee

User will pay FamilyOfficeNetwork® an annual fee as invoiced. If applicable, said fee may afford User membership in a Network. Additional fields of expertise may be added for an additional license fee. (For example a listing as a CPA and insurance agent). Participation in another Network is subject to acceptance by the local Network Coordinator and an additional fee for each Network. Where two or more licenses (passwords) are required in the same firm, the second and subsequent licenses will be at an additional fee. Should an Associate Advisor leave the firm, he may transfer his sub-license to a full license by paying the additional fee prorated. A sub-license may not, at anytime, be used as a stand-alone. FamilyOfficeNetwork® provides a finite amount of storage capacity; additional storage fees, if any, will be billed to the User at cost.

Fees are due within 30 days of the date of FamilyOfficeNetwork®'s invoice. Should User fail to timely pay these fees, FamilyOfficeNetwork® may deny User access to the services. Fees may be paid monthly or annually by credit card or annually by invoice. When paying by credit card, we will bill your card automatically for renewal. If you want to use a different credit card or there is a change in credit card validity or expiration date, or if there is unauthorized use, you must contact FamilyOfficeNetwork®.

User may not assign the right to use these Services without the prior written consent of FamilyOfficeNetwork.

## 6. Termination

***FamilyOfficeNetwork® reserves the right to terminate a User's access or a client's access to the services at anytime. If a User is terminated within the first 30 days, the User may be eligible for a full refund if deemed appropriate by FamilyOfficeNetwork®.***

## 7. Security and Responsibility Waiver

FamilyOfficeNetwork® agrees to use its best efforts to insure that client information is accurately and securely maintained on the Network and accessible only to authorized Users. User acknowledges, however, that FamilyOfficeNetwork® cannot guarantee the security of client information and that it cannot control the actions and use of information deposited on the Network by participating client advisors. User, therefore, waives all claims and holds FamilyOfficeNetwork® harmless for any security failure, loss of client information, or misuse of client information by User or others.

User agrees, to the extent allowed under federal law, to indemnify and hold FamilyOfficeNetwork, LLC, its parents, subsidiaries, affiliates, officers, employees, sponsors and partners harmless from any claim, loss, cost, expense, demand, or damage, including reasonable attorneys' fees, arising directly or indirectly out of (a) the User's or its Clients' use of or connection to the Services, this Website, the Site, or the Materials, (b) Site Information or other information transmitted or stored by the User or its clients through or on the Site or the Services, (c) activities in connection therewith, or (d) the User's or its clients' breach of this Agreement or violation of the rights of any other party.

## **8. User Acknowledgments and Representations**

User acknowledges that the database of the Network will be maintained on the Internet and controlled by software that FamilyOfficeNetwork® has licensed for its use and for the use of Users as described in this agreement. User agrees to utilize the Network in a manner consistent with the terms of this agreement, the software licensing requirements and the operating instructions provided by FamilyOfficeNetwork®. User will not allow Network access or share Network information with non-participating client advisors and will terminate its connection to the Network at the conclusion of each work session and take all other reasonable steps to prohibit anyone from obtaining unauthorized access to the Network. User represents and warrants that User is and will continue to be properly licensed to provide the professional services User performs for participating clients and that User maintains and will continue to maintain errors and omissions insurance for the services it performs for participating clients. User also represents and warrants that it will: (a) protect the confidentiality of client information (and trade secrets) it places or obtains from the Network; (b) use its best efforts to provide accurate and current client information to the Network; (c) comply with all rules regarding the use of the Network as adopted by FamilyOfficeNetwork® from time to time; and, (d) protect the integrity and functionality of the Network when using it for the benefit of all Network participants.

## **9. Access to Services; Support; Third Party Providers; Rights**

FamilyOfficeNetwork® will provide the means for accessing client information and, if applicable, the Network and information contained on the Network. FamilyOfficeNetwork® will make commercially reasonable efforts to ensure that the quality of the service we provide is of at least prevailing industry standards, and that access to the Site is available on a 24 x 7 basis. However, although FamilyOfficeNetwork® will use all reasonable efforts in good faith to avoid interruption of the Service, the User acknowledges and agrees that access to the Services, Network and Network information may be unavailable from time to time for any reason, including without limitation, interruption of major network connectivity, network and server outages, and backup and regular maintenance by FamilyOfficeNetwork® and any operators of our servers.

We offer free support alternatives. These include free online help, free email support for all Users, and free telephone support. FamilyOfficeNetwork® may at anytime require a fee for different levels of support. FamilyOfficeNetwork® will make know of such fees before a User is liable for such.

## **10. Privacy**

FamilyOfficeNetwork® respects the privacy of its Users and its clients.

Where a User is part of a Network group, FamilyOfficeNetwork® will make User's contact information available to other members of the same Network. Client information may be shared with other users at the sole responsibility of the User that is completing the sharing. In such cases, it is the responsibility of the User that is sharing the information to obtain the appropriate authorization from the Client. Failure to obtain this authorization may result in legal consequences. User agrees to indemnify and hold FamilyOfficeNetwork, LLC, its parents, subsidiaries, affiliates, officers, employees, sponsors and partners harmless from any claim, loss, cost, expense, demand, or damage, including reasonable attorneys' fees, arising directly or indirectly out of such incident.

We do not reveal any personally identifiable information that we collect about you, your use of the Services, or any information that you post on your Account to anyone else.

We use industry-standard technology and other means to keep your information as secure as possible.

## **11. Affiliation**

FamilyOfficeNetwork® is wholly or partially owned by Peter R. Wheeler, who is an officer, director and shareholder of Wheeler/Frost Associates, Inc., a Registered Investment Adviser. Wheeler/Frost Associates, Inc., has participating Network clients and uses the Network as a participating advisor, subject to the same or similar terms and obligations as other participating advisors. Wheeler/Frost Associates, Inc. acts as the Coordinator for the San Diego Network.

## **12. Copyright Restrictions**

This website is operated by the use of computer software licensed to FamilyOfficeNetwork®. Copyright and other intellectual property laws protect this software. By using this website, User agrees to honor the copyrights and all other proprietary rights of FamilyOfficeNetwork® and its software licensors. As such, User will not reproduce in any form, transfer, assign, publish, distribute or disseminate the software information used to access or operate the website.

## **13. Proprietary Rights**

*The services provided by this website, all content, and all trademarks, including but not limited to all material distributed or presented to the User or its Clients through the services of FamilyOfficeNetwork® or its Third Party Providers or on the Linked Sites, and all rights and intellectual property rights therein, are the sole property of FamilyOfficeNetwork.com, or its Third Party Providers, and are protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Any comments, suggestions or ideas or other information submitted to FamilyOfficeNetwork® through this website, in writing, by e-mail or otherwise will be the property of FamilyOfficeNetwork®. FamilyOfficeNetwork® will have all rights therein without any obligation to compensate the User or its clients. All information posted to the website will remain the sole property of the User, its clients, or any party with rights therein. Any rights not expressly granted herein are reserved.*

## **14. Governing Law**

FamilyOfficeNetwork, LLC is domiciled in San Diego, California and is governed by the laws of California. In the event any legal action is filed regarding the subject matter of this agreement, jurisdiction and venue of such proceeding is vested in the Superior Court of California for the County of San Diego, San Diego Judicial District.

## **15. Attorney's Fees**

In any legal dispute regarding the obligations of the parties arising from this agreement, the prevailing party is entitled to reasonable attorney's fees and court costs.